

## HIGH COURT, LAW GJYKATA E LARTË, LIGJ

### DISCLAIMER

Please note that the translation provided below is only provisional translation and therefore does NOT represent an official document of Republic of Albania. It confers no rights and imposes no obligations separate from those conferred or imposed by the legislation formally adopted and published in Albanian language.

Unofficial translation of the law on the organisation and functioning of the High Court of the Republic of Albania, containing the original law and the following amending laws:

Amending law no 151/2013<sup>1</sup>

Amended by Decision of the Constitutional Court no.40/2014<sup>2</sup>

Amending law no 177/2014<sup>3</sup>

Amended by Decision of the Constitutional Court no 55, dated 27/07/2016<sup>4</sup>

Last check 29 July 2016

### LAW

No. 8588, dated 15/03/2000

---

<sup>1</sup> This amending law is adopted on 30.05.2013, promulgated by the Presidential Decree no 8214, dated 04/06/2013, published in OJ no 95, p 3949, year 2013 and it contains the following temporary provisions:

Article 10

#### Transitory provision

The judges of this chamber shall, until the completion of the number of the Administrative Chamber members in accordance with the rules provided in this law, be appointed by the Chairman of the High Court from among the ranks of the existing judges, taking into account their professional experience.

Article 11

This law shall enter into effect on 1 October 2013.

<sup>2</sup> The Decision of the Constitutional Court no.40, dated 07.07.2014 which enters into force on the day of its promulgation has decided:

Repeal, as incompatible with the Constitution, of the expression...”of which, no less than 5 years as a judge at the Court of Appeal” to the letter b/i, point 1, Article 3, and the expression “not to have conflict of interest or nepotism connections with judges of the courts of ordinary jurisdiction” to the letter b/ii, point 2, Article 3.

<sup>3</sup> This law is adopted on 18.12.2014, published in the OJ no. 217, p. 12909, dated 06.02.2015 and it enters into force on 21.02.2015 and it contains the following temporary provision:

Article 7

This law shall enter into effect 15 days after its publication in the Official Journal.

<sup>4</sup> This decision enters into effect on the day of publication on the Official journal

# ON THE ORGANISATION AND FUNCTIONING OF THE HIGH COURT OF THE REPUBLIC OF ALBANIA

In reliance on articles 6, 81 point 2 letter “a” and 83 point 1 of the Constitution, on the proposal of the Council of Ministers,

## ASSEMBLY OF REPUBLIC OF ALBANIA.

DECIDED:

### CHAPTER I

#### ORGANISATION AND FUNCTIONING OF THE HIGH COURT

##### Article 1

##### Composition of the High Court

~~The High Court is composed of seventeen judges.~~

The High Court shall be composed of 19 judges.

##### Article 2

##### Headquarters of the High Court

The High Court has its headquarters in Tirana.

##### Article 3

##### ~~Qualifications for appointment as a judge of the High Court~~

~~Judges of the High Court are appointed from among the judges who have seniority of no less than ten years or from among prominent jurists who have exercised this profession for no less than 15 years.~~

##### Conditions and criteria for selection of judges

1. The Albanian citizen, that fulfills the following conditions, may be selected as judge at the High Court:
  - a) Completed higher education in law, Second Level Diploma;
  - b) Worked as:

- i) Judge for not less than 13 years, ~~of which at least 5 working years as judge at the Court of Appeals;~~
  - ii) Jurist with not less than 15 years of professional experience in public functions in the administration of the Assembly, administration of the President, the apparatus of the Council of Ministers, ministries and independent central institutions, in the Constitutional Court and the High Court, prosecutor, lawyer and academic staff in higher education, professor ~~and docent~~ or the academic degree “Doctor”, as well as lecturer ~~or director~~ at the School of Magistrates;
  - iii) Conditions determined in this letter are supplementary;
  - c) Does not have any disciplinary measures in force;
  - d) Has not been a member of political parties in the 5 preceding years from the date of candidacy;
  - e) Has not been criminally convicted with a final court decision.
2. The candidates that fulfill the legal conditions provided for in paragraph 1 of this article, are selected as judges in the High Court:
- a) Based on these objective criteria:
    - i) Seniority;
    - ii) Special experience of the candidate in a specific field of law;
    - iii) Assessments and indicators of high quality of work of the candidate, which includes judicial decisions, submissions, discussions and any other act prepared by the candidate during participation in trials;
    - iv) Academic indicators, which includes publications and academic articles in the field of law;
    - ~~v) Progress during completion of higher education in law;~~
    - v) Progress in carrying out legal higher education, with a grade point average of not less than 8 (eight), as well as the final evaluation by the School of Magistrates;
    - vi) previous disciplinary measures, their type and number;
    - vii) Enjoy high moral integrity;
    - viii) Full and documented transparency of all income and assets and payment of all tax obligations, based on official documentation of state institutions relevant in the area of taxation, registration of private interests, declaration and control of assets; conflict of interest.
  - b) Based on the assessment of the following supplementary criteria:
    - ~~i) Have high moral integrity, which includes, among others, full and documented transparency of all income and assets and payment of all tax obligations;~~
    - i) composition of the judicial panel at the moment of appointment of the candidate, aiming at achieving a balance between personal experiences of the members, in order to achieve the functioning of the specialized panels according to the areas of law and the fulfillment of the constitutional role of the Supreme Court for the unification or amendment of jurisprudence through its unifying decisions.”
    - ii) **No conflict of interest or nepotism ties with judges of the ordinary jurisdiction courts;**

- ii) composition of the judicial panel at the moment of appointment of the candidate, abiding by the principle of non-discrimination, aiming at an optimal gender balance
  - iii) The composition of the judicial body, at the moment of appointment of the candidate, aiming to balance out between the personal experiences of the members;
  - iv) Official information obtained from other public institutions, including also confidential information in connection to the candidate.
3. In any event, the number of judges selected from the rounds of jurists may not be higher than  $\frac{1}{4}$  of the general number of judges of the High Court.

### **Article 3/1**

#### **The Council for Appointments to the Supreme Court**

1. The Council for the Appointments to the Supreme Court, as an advisory body to the President of the Republic, is established in order to verify the fulfillment of the criteria by the candidates for the Supreme Court, the legal requirements and the additional objective criteria, as well as their ordering.
2. The Council for Appointments is composed of the Supreme Court Chief Justice, the Chairman of the Constitutional Court, the Minister of Justice, the Prosecutor General, the Deputy Chairman of the High Council of Justice, the President of the National Chamber of Advocates and one judge from the Supreme Court elected by all the members of this court.
3. The Supreme Court Chief Justice is the chairman of the Council for Appointments. The Supreme Court Chief Justice, through the administration of this Court, creates the working conditions for the activity of the Council, as well as for the documentation of this activity.
4. The method of functioning of the Council for the Appointments is regulated by a Regulation drafted and approved by this Council.

### **Article 4**

#### **~~Procedure of appointment of a High Court judge~~**

~~A judge of the High Court is appointed by the President of the Republic after receiving the consent of the Assembly.~~

#### **Appointment Procedure**

1. The High Court judge is appointed by the President of the Republic upon conclusion of the procedures determined ~~in Articles 4 and 4/1 of this law~~ in Articles 4 and 4/2 of this law.
2. The Chair of the High Court, no later than 3 months from termination of the mandate of a judge of the High Court or immediately, in the case of termination of mandate before the legal term, notifies the President of the Republic on the vacant position that is expected to be created or that has been created.
- ~~3. The President of the Republic, within 2 weeks from receipt of notification from the Chair of the High Court publicly notifies, in the official website of the President of the Republic, the start of the procedures for the selection of the candidates, by~~

determining the necessary documents for the application and the deadline within which the interested subjects must present their request to be selected as members of the High Court.

3. The President of the Republic, within two weeks of receipt of notice from the Supreme Court Chief Justice, shall announce publicly through the webpage of the Office of the President of the Republic the beginning of the procedures for the selection of candidates, by requesting the submission of individual requests, relevant documents to prove the fulfillments of conditions and criteria as provided by Article 3, as well as the timeline within which the interested individuals should present the request and the documents to be selected as members to the Supreme Court.”
4. **At the end of the deadline set for presentation of documents, the President of the Republic, within one week, publishes the list of the candidates in the official website of the President of the Republic.**
- ~~5. The decree of the President of the Republic for appointment of the High Court judge is published in the official website of the President of the Republic and is immediately forwarded to the Assembly of the Republic of Albania, which continues with the procedures, pursuant to the rules determined in the Regulation of the Assembly.~~
5. Within five days from the day of the publication of the list of the candidates in accordance with point 4 of this Article, the Supreme Court Chief Justice shall call a meeting of the Council for Appointments to examine the fulfillment of legal requirements and additional objective criteria for the members to the Supreme Court.  
The notification of the call for the meeting is public and contains the date, time, and place where this meeting will take place. The meeting of the Council for Appointments takes place within seven days from the day of its notification. The files of the candidates, along with the request and the relevant documents presented by the candidates, are made available to the Council for Appointments by the Office of the President of the Republic.
6. ~~The decree of the President must be reasoned and clearly specify the reasons for selecting the winning candidate.~~
6. The Council for Appointments, after examining the relevant documents for each candidate, drafts within ten days a written report that analyzes the fulfillment of legal requirements and additional objective criteria for each of them. For candidates who fulfill the conditions and the criteria as provided in the law, the Council for Appointments makes their rankings on the basis of evaluation of degree of fulfillment of the conditions and criteria provided by Article 3 of this law. As a rule, the report is adopted by consensus. If consensus is not reached, the report is adopted by simple majority of all the members of the Council for Appointments.
7. The report of the Council for Appointments is presented to the President of the Republic, who publishes it in the official webpage of the Office of the President of the Republic.

## **Article 4/1**

### **Process of cooperation**

- ~~1. The President of the Republic shall cooperate with the heads of parliamentary groups in the Assembly, by holding consultations on setting out the concrete criteria, based on the list of competitors, under Article 4 of this law, in compliance with the constitutional requirement of high qualifications, in order to ensure a qualitative and appropriate composition of the High Court.~~
- ~~2. The President of the Republic may, in the course of competition procedure, ask for official data or information from any state institution.~~

### **Obtaining official data and information**

1. The President of the Republic, in addition to the Report of the Council for Appointments and the documents submitted by the candidates themselves, may request data or official information about candidates by each governmental institution, including confidential information.

2. These acts become part of the file of the candidate and are dealt with in compliance with the legislation in effect for the protection of personal data. The official data and information may be made available to the candidate, based on a grounded request and in compliance with the effective legislation pertaining to the classified information.”

#### **Article 4/2**

##### **Process of Cooperation**

The President of the Republic, based on the report of the Council for the Appointments and the file for each candidate, holds consultations for the selection of the candidates with the chairmen of the parliamentary groups in the Assembly. The consultation process is intended to ensure a most appropriate and consensual selection among candidates who meet the legal requirements and additional objective criteria, based on their merits and integrity, in accordance with the constitutional requirement for high qualifications, in order to ensure a qualitative and appropriate composition of the Supreme Court.

#### **Article 4/3**

##### **Appointment Decree**

1. The President of the Republic decree for the appointment of judges to the Supreme Court is published in the official webpage of the Office of the President of the Republic and is immediately forwarded to the Assembly, which follows procedures in accordance with the rules as provided by the Regulation of the Assembly.

2. The decree of the President of the Republic shall be reasoned and shall clearly define the reasons for the selection of the winning candidate.”

#### **Article 5**

##### ~~Commencement of the Mandate~~

~~The mandate of a judge of the High Court begins from the moment the decree of the President appointing him enters into force.~~

~~The mandate of the President of the High Court is calculated within the mandate of a judge in that court.~~

##### **Mandate of High Court judge**

1. The mandate of the High Court judge starts on the day of his oath ceremony before the President of the Republic, this date being notified to the High Court officially and included in the personal file of the judge.

2. The mandate of the High Court Chairman shall be calculated within the mandate of the judge of this court.

~~3. The judge, whose mandate has expired or it has ended in the sense of letter "e", Article 139 of the Constitution, shall continue to assume his task until the appointment of the successor judge.~~

## Article 6

### Early termination of the mandate of a High Court judge

In the cases provided for in article 139 of the Constitution, the President of the High Court or any other member proposes to the Joint Colleges of the High Court to declare by a decision the termination of the mandate of the member of the court.

## Article 7

### President of the High Court

The High Court is represented by the President.

The President of the High Court has these duties:

- a) He chairs the Joint Colleges.
- b) He divides the judges into colleges **in compliance with the rules contained in this Law.**
- c) He attends to the normal functioning of the High Court.
- ç) He appoints and dismisses the legal assistants.
- d) He appoints and dismisses the personnel for auxiliary services.
- dh) He makes requests for the annual budget of the High Court and supervises its implementation.
- e) He approves the structure, organogram and internal rules of the High Court.

The President of the High Court also performs other duties provided by law.

In performing his duties, the President of the High Court is assisted by advisers and the auxiliary personnel.

## Article 8

### Replacement of the President

When the President of the High Court is unable to perform his duties, he is replaced by the Chairman of the Civil College in performing the duties provided in letters "a," "c" and "dh" of Article 7 of this law.

## Article 9

## **Consultation with the judges**

The President of the High Court consults with the judges, in particular with respect to:

- a) The structure of the High Court;
- b) The internal rules for the functioning of the High Court;
- c) The budget requests of the High Court;
- ç) The assignment and transfer of judges into colleges.

### **Article 10**

#### **~~The colleges~~**

~~The High Court is organised into the Civil College and the Criminal College.~~

~~Military criminal cases are tried by the Criminal College, while cases of a commercial, administrative, family cases, labour cases and so forth are tried by the Civil College.~~

~~The President of the High Court, after taking the opinion of the judges, may move them from one college to the other, for reasons of workload and of the normal functioning of the court.~~

#### **Chambers**

1. The High Court shall be composed of the Civil chamber, Criminal Chamber and Administrative Chamber.
2. The appointment of judges to chambers shall be made by the Chairman of the High court, taking account of their professional experience.
3. The Chairman of the High Court may, after obtaining the consent of the judge, transfer them from one chamber to another, for reasons connected to the workload and normal functioning of the court.

### **Article 11**

#### **Chairman of a college**

The Chairman of a college is elected by its members by simple majority for a term of one year, with the right of re-election.

### **Article 12**

#### **Competences of the colleges**

~~The colleges of the High Court try appeals of judicial cases according to the rules provided in the Code of Civil Procedure and the Code of Criminal Procedure.~~

#### **Powers of the chambers**

1. Cases of commercial, civil or family character shall be tried by the Civil Chamber.
2. Criminal cases shall be tried by the Criminal Chamber.
3. Cases of administrative character and labour cases shall be tried by the Administrative Chamber.



4. Chambers of the High Court shall try the judicial cases in accordance with the rules provided for in the effective procedural legislation.

### **Article 13**

#### **Panels**

The colleges of the High Court adjudicate in panels consisting of five judges, unless the effective procedural legislation provides for differently.

When a panel cannot be formed with judges of the same college, it is filled with judges from the other colleges. These judges are designated by lot.

When the President of the High Court takes part in an adjudication, he chairs the panel. In all other cases, the panel is chaired by the chairman of the college and, in his absence, by the most senior judge.

### **Article 14**

#### **Cases tried by the Joint Colleges**

The High Court adjudicates in the Joint Colleges:

- a) Cases provided in the Code of Civil Procedure and the Code of Criminal Procedure;
- b) Appeals against decisions of the High Council of Justice;
- c) Requests for the unification or amendment of the judicial practice;
- ç) Other cases provided by law.

### **Article 15**

#### **Trial in the Joint Colleges**

When the High Court adjudicates in the Joint Colleges, the President of the High Court chairs the session. In his absence, the Chairman of the Civil College chairs the session. When the High Court adjudicates in the Joint Colleges, two reporters are selected by lot, who, independently, prepare reports and submit them to the trial.

### **Article 16**

#### **Quorum**

The Joint Colleges adjudicate when no less than two thirds of all the judges of the High Court take part. The decision is taken by the majority vote of the judges who take part in the trial.

### **Article 17**

## **Unification or amendment of judicial practice**

The Joint Colleges unify or amend judicial practice when:

- a) Requested by a college of the High Court;
- b) Request by the President of the High Court;
- c) Joint Colleges deem is necessary.

### **Article 18**

#### **Trial during the annual vacation**

During the time of annual vacation, a necessary number of judges is designated by lot to adjudicate cases that, according to the law, are considered urgent.

### **Article 19**

#### **Decisions and their publication**

Decisions of the High Court are announced with reasoning no later than 30 days from the date of the conclusion of the judicial examination.

Decisions of the colleges of the High Court, along with minority opinions, are published in the Periodical Bulletin of the High Court.

Decisions unifying or amending judicial practice are published in the next issue of the Official Journal.

### **Article 20**

#### **Legal assistants**

A High Court judge has up to two legal assistants and a service person.

The legal assistants are selected by the judges of the High Court themselves from among jurists who meet the legal requirements for being appointed judges of first instance or appeal courts. They are appointed by the President of the High Court.

The legal assistants are entitled respectively to the salary of a judge of the first instance or the court of appeals.

A legal assistant is removed from office by order of the President of the High Court on the basis of the proposal of the respective judge.

When he is removed without good cause, he has only the right to be compensated for his damage, up to the amount of his annual salary.

### **Article 21**

#### **Duties of a legal assistant**

Legal assistants study appeals and judicial files, prepare reports giving their opinion on pending cases, answer complaints, prepare necessary materials and perform every other task assigned by the High Court judge.

## **CHAPTER II STATUS OF A HIGH COURT JUDGE**

### **Article 22**

The salary of a High Court judge is equal to that of a minister, while the salary of the President of the High Court is 20 per cent higher than the salary of a judge of the court.

### **Article 23**

A High Court judge and his/her spouse are entitled to a diplomatic passport until three years after the end of the mandate.

### **Article 24**

The protocol treatment and health treatment of members of the High Court is the same as that of a deputy.

### **Article 25**

On completing the mandate, according to the conditions provided in article 136, point 3, of the Constitution, a judge of the High Court is appointed judge in the court of appeals upon his request.

## **CHAPTER III ADMINISTRATION OF THE SERVICES OF THE HIGH COURT**

### **Article 26**

#### **Chancellor of High Court**

The Chancellor manages the auxiliary services within the High Court.

A jurist who has exercised the profession for not less than seven years is appointed as Chancellor.

The Chancellor is appointed and dismissed by the President of the High Court.

**Article 27**  
**Administration of services**

The Chancellor organises the judicial lots.

The Chancellor proposes the appointment and dismissal of the auxiliary service personnel to the President of the High Court.

**Article 28**  
**Auxiliary services of the High Court**

The auxiliary services in the High Court are carried out by the judicial secretariat, the sectors of administrative, finance, computer services, registration, document retention, preservation of internal order, research and external relations and the library.

For other auxiliary services, the President of the High Court, on the proposal of the Chancellor, may establish other sectors.

**Article 29**  
**Guaranteeing order and safety**

A permanent police service operates at the High Court in accordance with the instructions of the Chairman, in order to ensure order and safety.

**CHAPTER IV**  
**FINAL PROVISIONS**

**Article 30**

The Council of Ministers is charged with issuing sub-legal acts for the implementation of the provisions of this law in connection with the financial and protocol rights of a judge of the High Court.

**Article 31**

Law no. 8362 of July 1, 1998 "On the organisation and functioning of the Court of Cassation," as well as any other provision that is contrary to this law, is repealed.

~~For all other issues that are not regulated in this law, the provisions of the law no. 8436 of December 28, 1998 "On the organisation of the judicial power in the Republic of Albania" are applicable.~~

Concerning all the other issues which are not settled in this law, the provisions of the law no 9877, dated 18/02/2008, "On the organization of the Judicial Power in the Republic of Albania", shall apply.

### **Article 32**

This law enters into force 15 days after its publication in the Official Journal.

**Promulgated with decree no. 2589 of April 3, 2000 of the President of the Republic of  
Albania,**

**Rexhep Meidani**