Based on article 55 paragraph 8 of the Law on Judicial Council of the Republic of Macedonia, The Judicial Council at the meeting held on 30.01.2007 passed

RULEBOOK
REGARDING THE PROCEDURE FOR
DISCIPLINARY RESPONSIBILITY OF THE JUDGES

I. GENERAL PROVISIONS

Article 1

This rulebook regulates the procedure for determining a disciplinary responsibility of a judge.

Article 2

The Judicial Council of the Republic of Macedonia (in the further text The Council) initiates a procedure for disciplinary responsibility against a judge for a more severe disciplinary violation regarding which a procedure for disciplinary responsibility of a judge is initiated that leads to dismissal and disciplinary procedure for determining the disciplinary responsibility of a judge that could lead to issuing a disciplinary measure.

Article 3

The disciplinary procedure is urgent and of a confidential character. It is conducted without presence of the public while respecting the reputation and dignity of the judge.

II. REQUEST FOR INITIATING A DISCIPLINARY PROCEDURE

Article 4

The disciplinary procedure is initiated upon request of a Member of the Council, the President of the Court, the President of the Higher Instance Court or the General Session of the Supreme Court of the Republic of Macedonia within three months of the day when the committed has become known, but not longer than a year from the day it was committed.
Article 5

The request for initiation of a disciplinary procedure (in the further text request) contains name and surname of the judge and other data for personal identification, in which court he/she performs his/her function, description of the disciplinary violation, the legal title of the violation, by listing the provisions from the Law on courts and proposed evidence that should be derived at the hearing.

The request is submitted together with the evidence on which the request is based.

Article 6

The request is submitted to the Council.

The request is registered in the Registry log and a case is formed.

Article 7

The Council forms a disciplinary committee composed of 5 members which come from the Council (in the further text Committee).

The case is submitted to the Committee.

III. PRELIMINARY PROCEDURE

Article 8

The Committee submits the request personally to the judge against which it is submitted.

The judge is entitled to a written response to the findings in the request or he/she may give an oral statement as part of minutes within 8 days of the day when the request was received.

The judge against which a request is submitted has a right to a Defense attorney who is supposed to be informed and provided for the hearing by him/her.

Together with the response to the request the judge submits all the evidence that refute the findings in the request.

The judge is obliged to include in the response to the request, his/her address to which the writs will be sent.
Article 9

The Committee collects data and evidence which are of interest for determining of the situation regarding the disciplinary responsibility of the Judge.

Article 10

Based on the collected data and evidence from article 9 of this rulebook, the Committee submits to the Council a report with a proposal regarding the validity of the request.

IV. INITIATION OF A DISCIPLINARY PROCEDURE

Article 11

The Council discusses during a session upon the request and the proposal of the Committee and decides whether to initiate a procedure or terminate a procedure.

The decision from paragraph 1 of this article is made by the Council with the majority of votes from the total number of members in the Council.

Article 12

The decision from article 11 of this rulebook is submitted to the submitter of the request, the judge and the president of the court where the judge performs his/her function, and the case with all supporting documents is handed over to the Committee.

Article 13

The Council can temporarily exclude a judge from performing his/her judicial function when a procedure for determining the responsibility of a judge is initiated, in accordance with the Law on Courts.

Article 14

The Committee schedules a hearing within 30 days from the day the decision is made for initiation of a disciplinary procedure.

The Committee works in its full composition at the hearing.

The hearing is chaired by the President of the Committee.
Article 15

The submitter of the request and the judge are invited to attend the hearing.

If the attendees from paragraph 1 of this article which are properly invited do not attend, and if they do not justify their absence, the hearing shall be held.

Article 16

The evidence proposed by the submitter of the request, the judge, as well as the evidence collected by the Committee will be derived at the hearing.

The judge is entitled to state his/her position on all the evidence derived at the hearing.

Article 17

If the derived evidence direct to a committed more severe disciplinary violation which was not mentioned in the request, the submitter of the request can modify the request by issuing a new request in addition to the existing one.

The submitter of the request can modify the request before the committee or to ask the hearing to be postponed so that the new request is drafted, and the judge can immediately give a response to the request or ask for a postponement of the hearing for the purpose of drafting a response regarding the findings in the modified request.

The deadline for response to the request is three days.

Upon the given response to the request, the Committee submits a report with a proposal regarding the validity of the new request of the new request to the Council which decides for initiation of a procedure or termination of the procedure upon the new request.

Article 18

Minutes are taken regarding the actions undertaken at the hearing.

The minutes are taken by a person that will be determined by the Council, from the pool of state advisors.

The minutes contain: day, hour and place when the hearing will be held, the members of the Committee and the minute taker, the names of the attendees, statement by the submitter of the request, statement by the judge, i.e., his/her defense attorney, the derived evidence.

The minutes are signed by the submitter of the request, the judge or his/her defense attorney, the members of the committee and the minute taker.
The President of the committee can order the whole or part of the hearing to be noted in a stenographic way, i.e., audio recording to be performed.

The stenographic notes or the audio recording will be translated, examined and attached to the minutes, together with the transcript from the audio recording within 48 hours.

Article 19

The committee submits a report regarding the established situation within 15 days after the hearing is finished and gives a proposal to the Council to make a decision:

- For termination of the procedure,
- For issuing a disciplinary measure or
- For dismissal of the judge due to a committed more severe disciplinary violation.

Article 20

The report should contain all the writs and acts that were available to the Committee in the course of the procedure, statement of the judge, description of the undertaken actions, as well as an elaborated proposal for decision for the Council.

V. DECISION MAKING

Article 21

The Council based on the report and the discussion at the session of the Council may:

- Terminate the disciplinary procedure
- Issue a disciplinary measure adequate to the committed violation
- Dismiss the judge due to a committed more severe disciplinary violation.

Article 22

When the Council determines that a disciplinary violation is not committed, it will make a decision to terminate the procedure.
Article 23

The Council can issue the following disciplinary measures for the determined responsibility of a judge:

- Written warning
- Public reprimand
- Salary deduction in the amount from 15% to 30% from the monthly salary of the judge, in duration from one to six months.

Article 24

In the process of issuing of disciplinary measures from article 23 of this rulebook, the Council will take into consideration the following circumstances: the number and severity of the committed violations and their consequences, the level of responsibility, the circumstances under which the violation is committed, the performed work until then and behavior of the judge, also including the cooperation of the judge in the course of the disciplinary procedure.

Article 25

The Council will dismiss the judge for a committed more severe disciplinary violation by issuing a decision according to article 77 from the Law on Courts.

Article 26

The Council passes the decision from article 25 of this rulebook with two thirds majority of votes out of the total number of members in the Council.

The decision is drafted in writing within 15 days of the day it was passed.

Copy of the decision is submitted to the judge, his/her defense attorney, to the submitter of the request, to the President of the court in which the judge performs his/her function, or to the President of the immediately higher instance court.

Article 27

The judge has the right to appeal, against the decisions of the Council to dismiss a judge or if a disciplinary measure is issued, to the Council designated to decide upon the appeals filed against the Judicial Council, which is formed within the Supreme Court of the Republic of Macedonia, no later than 8 days upon the receipt of the decision.
VI. MODIFICATION AND AMMENDMENTS OF THE RULEBOOK

Article 28

The modification and the amendment of this rulebook are performed in a way and within a procedure which is valid for its adoption.

VII. TRANSITIONAL AND FINAL PROVISIONS

Article 29

By entering into force of this Rulebook, the Rulebook regarding the procedure for disciplinary responsibility of the judges, issued by the State Judicial Council published in (“Official Gazette of the Republic of Macedonia” No. 7/98) cease to be valid.

Article 30

The procedures that are initiated before the State Judicial Council, and are not finalized, will continue before the Judicial Council in accordance with the provisions of this Rulebook.

Article 31

This rulebook enters into force with the day of its adoption, and it will be published in “the Official Gazette of the Republic of Macedonia”

JUDICIAL COUNCIL
OF THE REPUBLIC OF MACEDONIA

PRESIDENT,
Bekir Iseni