

BAILIFF SERVICE, LAW **SHËRBIMI I PËRMBARIMIT, LIGJ**

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Unofficial translation of the version of the law on the organisation and functioning of the judicial enforcement service:

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LAW

Nr. 8730, dated 18.01.2001

ON THE ORGANISATION AND FUNCTIONING OF THE BAILIFF SERVICE

In reliance on articles 78 and 83, point 1, of the Constitution, on the proposal of the Council of Ministers,

THE ASSEMBLY OF THE REPUBLIC OF ALBANIA

DECIDED:

CHAPTER I

GENERAL PROVISIONS

Article 1

Purpose of this law

This law specifies:

a) the rules of the organization and functioning of the bailiff service;

- b) the criteria that the citizens are to meet to become bailiffs;
- c) the status and disciplinary proceeding of a bailiff;
- ç) the relationship with the state institutions and other public and private subjects.

Article 2

Object of activity

1. The bailiff service has the mission of obligatory execution of executive titles, in the cases provided in the Code of Civil Procedure.
2. The bailiff service exercises its functions through judicial bailiffs.

Article 3

Organisation

The bailiff service has a unique and centralised organization structure, extending to all the territory of the Republic of Albania.

Article 4

Principles of the activity

Lawfulness and objectivity as well as the respect of the rights and freedoms guaranteed by law for the subjects that participate in execution are the basic principles of the work of the bailiff service.

Article 5

Bailiffs

1. A bailiff is a person assigned by law to perform the activity of putting executive titles into execution according to the provisions of the Code of Civil Procedure.
2. While exercising his activity, a bailiff shall be characterised by honesty, impartiality and professionalism.
3. A bailiff, while exercising his activity, represents the state authority.

CHAPTER II

ORGANISATION AND FUNCTIONING OF THE BAILIFFS' OFFICE

Article 6

Levels of Organisation

The bailiff service is under the Minister of Justice and is organised on a central and local level as follows:

- a) The General Directorate constitutes the central level of organisation.
- b) Bailiffs' offices, within the jurisdiction of each judicial district of the first level, constitute the local level of the organization and are under the administrative subordination of the General Directorate.

Article 7

The General Director

1. The General Director is responsible for the management, coordination and inspection of the bailiff service.
2. The General Director is appointed and discharged by the Prime Minister on the proposal of the Minister of Justice.

Article 8

Responsibilities of the General Director

The General Director has the following responsibilities:

- a) Manages and inspects the activity of the bailiff service.
- b) Assures the uniform application of legal and sublegal acts as well as practices relating to procedural execution activity.
- c) Prepares and issues orders, internal instructions and methodology dealing in general with execution matters.
- ç) Proposes to the Minister of Justice the appointment and removal of the chairmen of bailiffs' offices.
- d) Inspects the documentation of bailiffs' activity.
- dh) Organises and follows up the professional education and training of bailiffs.
- e) Ensures ethical and professional conduct in the execution activity.
- ë) Represents the bailiff service in relation to third parties.
- f) Exercises other responsibilities defined by law.

Article 9

Organisation of bailiff offices

1. Local bailiff offices in each judicial district consist of:
 - a) the chairman of the office;
 - b) bailiffs;
 - c) administrative and technical staff.
2. Each bailiff's office is a legal person and has its own seal.

Article 10

Personnel structure

1. The overall number of bailiffs in the bailiff service is set by the Prime Minister on the proposal of the Minister of Justice.
2. The structure of the General Directorate and bailiffs' offices, their personnel structure as well as detailed regulations on the functioning of the bailiff service are specified by the Minister of Justice on the proposal of the General Director.

Article 11
Financial resources

1. For the fulfilment of duties, the bailiff service has its own budget as a separate part within the budget of the Ministry of Justice.
2. The bailiff service has the right to use other income permitted by law.

Article 12
Getting income from execution activity

1. Every execution action is carried out only on payment of the respective fees.
2. Execution fees are determined by a normative act of the Minister of Justice.
3. The division of income, criteria, and procedures for administering and distributing income are specified by a joint order of the Minister of Justice and Minister of Finance.

CHAPTER III
BAILIFFS' COUNCIL

Article 13
Composition

1. The Bailiffs' Council consists of the general secretary of the Ministry of Justice, the general director of the bailiff service, the director of the Directorate of Personnel, Organisation and Services at the Ministry, the chairman of the Tirana bailiffs' office and a counsellor of the Minister of Justice.
2. Regulations on the functioning of the Bailiffs' Council, as well as the procedures that it follows, are specified by the Minister of Justice after receiving the Council's opinion.

Article 14
Responsibilities of the Bailiffs' Council

1. The Bailiffs' Council holds a competition for the appointment of bailiffs and investigates disciplinary violations committed by them.

2. The Bailiffs' Council evaluates the professional skills of the bailiffs every year, based on the criteria of quality, quantity of work, speed and good reputation, as follows:

- very good
- good
- acceptable
- incompetent.

The evaluation system of the work of bailiffs shall be determined by the Minister of Justice on the proposal of the general director of the bailiff service.

3. The Bailiffs' Council has an advisory function and in every case submits its opinion to the Minister of Justice, who is to decide within 30 days thereafter.

CHAPTER IV STATUS OF BAILIFFS

Article 15 Appointment of a bailiff

1. An Albanian citizen who meets these conditions is appointed a bailiff:

- a) Has full capacity to act.
- b) Has a university degree in law.
- c) Enjoys a good reputation.
- ç) Has not been convicted of a criminal act by a final court decision.
- d) Has not been dismissed from the public administration for disciplinary violations within a time period of 3 years from the date of submission of his application; when the disciplinary violation was committed while exercising the function of a judge, prosecutor, judicial police officer, notary or lawyer, the time period is 5 years.

2. Admission to the bailiff service is based on a competition. The Bailiffs' Council follows the procedures of selection and evaluation of the candidates and presents its opinion to the Minister of Justice within 15 days.

3. The winner shall be appointed a bailiff temporarily by the Minister of Justice for a probationary period of 3 months.

Article 16 Probationary period

1. During the probationary period, a bailiff is under the supervision of a senior bailiff and evaluated by his superior. Training activities are obligatory for the bailiff during the probationary period.

2. At the end of the probationary period, the Minister of Justice, on the proposal of the General Director, decides:

- a) permanent appointment as a bailiff;
 - b) removal from the bailiff service.
3. In the case of point 2, letter “b” of this article, the person concerned enjoys the rights of a bailiff only for the probationary period.

Article 17

Incompatibilities

1. A bailiff may not exercise any other public duty or activity, except educational ones and teaching.
2. He shall not have working relationships or conduct other activities that pose conflicts of interests with the position he holds or prevent him from fulfilling its duties.
3. A bailiff shall not be member of the central or executive bodies of political parties.

Article 18

Exclusion of the bailiff

1. A bailiff is obliged to give up the execution of a case when:
 - a) he has an interest in the case or another dispute related to the one in execution;
 - b) he himself or his spouse is a relative up to the fourth level or an in-law up to the second level, or is related by obligations of adoption or cohabits permanently with one of the parties or their lawyers;
 - c) he himself or his spouse has a judicial conflict or enmity, or has a credit or loan relationship with one of the parties or with one of the representatives;
 - ç) is a guardian, employer of one of the parties, administrator or has any other duty in an entity, association, company or institution that has an interest in the case under execution;
 - d) serious reasons of partiality are proved in any other case, according to concrete circumstances.
2. A request for resigning is presented to the chairman of the respective bailiff's office for a decision. In case the chairman of the bailiff's office declines to take a decision, the request is presented to the general director of the Bailiff Service. The content of the request is made known to the parties.

Article 19

Resignation by a bailiff

1. A bailiff, who judges in good conscience that there is a reason not to participate in the execution of a case, asks the chairman of the bailiff's office to be replaced. The chairman of the bailiff's office, when he finds the request appropriate, orders his replacement with another bailiff of that office.
2. The replacement of the chairman of a bailiff's office is ordered by the general director.

Article 20

Rights

The bailiffs also enjoy these rights:

- a) They participate in trade unions and professional associations.
- b) They enjoy health care and social security for themselves and the members of the family under their responsibility in accordance with the laws in force.
- c) They are paid the expenses of work trips according to the criteria and amount provided by decision of the Council of Ministers.
- ç) They are trained by the state to increase their professional level.

Article 21

Duties

Bailiffs are obliged:

- a) to acknowledge, respect and implement the Constitution, the Code of Civil Procedure, the Civil Code as well as other legal and sublegal acts connected with the bailiff's activity, as well as the orders, directions and methodologies of the general director of the bailiff service;
- b) to improve their professional skills and participate in training activities organised for this purpose.

Article 22

Salary and compensations

1. The salary of the bailiff is made up of the basic salary, supplements above the salary and special compensation.
2. The salaries of the bailiffs are determined by decision of the Council of Ministers
3. According to his work results, a bailiff may receive a compensation, which is covered by the income that has been earned, administered and delivered according to the point 3 of article 12 of this law.
4. According to his work results, a bailiff may earn a compensation, which is covered by the income remaining to the bailiff service, according to article 12 of this law. The special compensation is determined, in every case, by order of the Minister of Justice.

Article 23

Working time

1. The weekly working time and the timetable, as a rule, are the same as those of the public administration.

2. For working needs, by order of the immediate supervisor, a bailiff is also obliged to work out of working time, during weekends, holidays or even when on annual leave.
3. The criteria and the amount of payment for the overtime hours and the extraordinary hours are set by decision of the Council of Ministers.

Article 24

Leaves

1. Bailiffs enjoy the right to an annual paid leave of four calendar weeks. The annual leave is taken during the period July – August. In cases when a bailiff is charged with urgent duties during the period July – August, or when his leave is interrupted for work reasons, he has the right to receive up to an additional 5 days of leave together with the days of leave he has not taken.
2. For special personal or family needs, a bailiff has the right to enjoy up to 20 days of unpaid leave per month, but not more than 30 days per year
3. In cases of weddings or deaths within the family, when the time provided in point 2 of this article is consumed, a bailiff has the rights to enjoy up to 10 days of leave.

Article 25

Identification

1. A bailiff has an identification document that he presents at all times during the exercise of his duty. The document is used only during the exercise of the duty or because of duty.
2. The determination of the identification document is done by order of the Minister of Justice.

Article 26

Data collection and handling

1. A bailiff has the right and takes measures to collect, handle and protect data that is closely related to the needs of exercising the given functions and duties, respecting the constitutional and legal guaranties for the fundamental human rights and freedoms.
2. The organs of the public administration and the judicial system, public entities, as well as the natural and legal persons who have documents and data related to the execution, are obliged to provide them, when they are asked to do so by a bailiff.
3. The data received in accordance with this article are gathered, handled and protected and/or destroyed, in accordance with the respective dispositions in power.

Article 27

Special protection of the bailiff

When, while during the exercise of duty or because of it, the life or the family of a bailiff is put in danger, or his property is damaged, the state guarantees special protection, the conditions and means of which are determined by a decision of the Council of Ministers.

Article 28

Secondment

1. Because of work needs, a bailiff working for the closest bailiff's office can be seconded to work in another bailiff's office in order to execute a number of executive titles
2. A bailiff may be asked to move to another near-by bailiff's office not more than two times per year, up to 3 months each. At the end of this period, the bailiff returns to his previous position.
3. The general director of the bailiff service orders the appointment and transfer, after he has heard the bailiff.

Article 29

Suspension and preservation of place of work

1. A bailiff may be suspended from duty by an order of the General Director of the bailiff service if a criminal prosecution begins against him, until a final decision is taken.
2. The place of work of a bailiff is preserved:
 - a) during military service;
 - b) during a period of study, when the General Director gives his approval.
3. The bailiff is not paid during the period mentioned in points 1 and 2 of this article. In the case provided in point 1, when the criminal case is closed or when by a final court decision is declared innocent, the bailiff is paid the basic salary from the moment of suspension.
4. The period provided in points 1 and 2 of this article is taken into account for computing seniority in service.

CHAPTER V

DISCIPLINE AND DISMISSAL

Article 31

Disciplinary Measures

1. A bailiff officer who violates the rules provided in legal and sublegal acts related to his duty or does not apply them is punished with one of the following disciplinary measures if there is no place for criminal liability:
 - a) A reprimand in writing
 - b) A reprimand with a warning of dismissal in writing

- c) Discharge from duty.
2. A disciplinary proceeding starts no later than 30 days from the identification of the violation and not later than 1 year of the moment it was committed.
3. The General Director of the bailiff service takes the initiative to begin a disciplinary proceeding. The Bailiffs' Council gives its opinion within 15 days following the commencement of the proceedings.

Article 32

Imposing disciplinary measures and expunging them

1. Disciplinary measures are given by order of the Minister of Justice and are included in the personal file of the employee. They are imposed in a graduated or depending on the severity of the violation and the consequences. Only one disciplinary measure is imposed for each violation.
2. A bailiff is obligated to indemnify the damage caused, according to the laws in force.
3. The above measures are imposed by following an administrative procedure that guarantees the right to get data, the right to be heard, the right to be defended and the right to appeal. The person concerned is informed in writing of the decision regarding the administrative measure.
4. The measures specified in article 31, except letter "c," may be settled when the bailiff is not given any other disciplinary measure within one year from the first one. A settled disciplinary measure is removed from the personal file.

Article 33

Appeal

Against the disciplinary measures provided in point 1 of article 31 may be appealed in court in accordance with the rules provided in article 328 of the Code of Civil Procedure.

Article 34

Removal

1. A bailiff is removed from office in the following cases:
 - a) when he reaches retirement age;
 - b) when he becomes an invalid for health reasons for a period of time over 1 year;
 - c) when he loses legal capacities;
 - ç) when he requests it himself;
 - d) when position becomes redundant;
 - dh) when he was hired in violation of the criteria provided by this law.
2. A bailiff is removed from office by the Minister of Justice.

Article 35
Dismissal

1. A bailiff is dismissed in the following cases:

- a) When he is convicted for the commission of a criminal act;
- b) When he commits serious disciplinary violations;
- c) When he repeatedly violates the disciplinary rules and the measure given previously have not been removed;
- ç) When it is proved that he has used his position for the benefit of personal interests or for the benefits of persons to whom he is related;
- d) When it is proved that with his acts or omission to act he has created unjust privileges for other persons;
- dh) When he does not fulfil the bailiff's functions provided by law;
- e) When he has been rated "incompetent" in accordance with point 2 of article 14 of this law.

2. A bailiff is dismissed by the Minister of Justice.

CHAPTER VI
TRANSITIONAL AND FINAL PROVISIONS

Article 36
Reorganization of the bailiff service

The reorganisation of the bailiff service is to be completed within 6 months of the entry into force of this law, in compliance with the rules set in this law.

Article 37
Transitional Provision

For a bailiff, who, at the time this law enters into force, is attending studies at the Faculty of Law, the criteria provided in letter "b" of point 1 of article 15 and in letter "dh" of point 1 of article 34 of this law are applied after the completion of a time period that includes the years remaining for the completion of studies at the Faculty of Law plus one year. Until the completion of this time, he is a bailiff on probation and the rules of article 16 of this law are applied to him.

Article 38
Entry into Force

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

**Promulgated with decree nr. 2877 dated 30.01.2001 of the President of the Republic of
Albania, Rexhep Meidani.**