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LEGAL AID, LAW

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LAW

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ON STATE GUARANTEED LEGAL AID

Pursuant to Articles 78 and 83, paragraph 1, of the Constitution, on the proposal of a member of Parliament,

THE ASSEMBLY

OF THE REPUBLIC OF ALBANIA

DECIDED:

CHAPTER I GENERAL PROVISIONS

Article 1

Scope of the law

This law establishes the forms, the conditions, the procedure and the rules for the organisation and administration of state guaranteed legal aid, with the aim the protection of fundamental rights of the individual and his legitimate interests.

Article 2

Objective of the law

This law has as an objective:

- a) to create a system for the organisation and delivery of free-of-charge legal aid in an effective and equal manner for all individuals in need in order to enable to them access to justice.
- b) to ensure the proper organization, proper administration and proper functioning of the state institutions responsible for the administration of legal aid
- c) to ensure the delivery of professionally competent, high quality, efficient and effective legal aid services.

Article 3

Definitions

In this law the following terms shall have the following meanings:

- a) *“Legal aid”* is the free-of-charge legal service and the other services provided for in this law, for persons meeting the requirements of this law which are guaranteed and financed by the state;
- b) *“Primary legal aid”* is:
 - i) providing of information regarding the legal system of the Republic of Albania, the normative acts in force, the rights and obligations of subjects of law and the methods of enforcing and exercising these rights both in judicial and extrajudicial proceedings,
 - ii) the delivery of counselling,
 - iii) the delivery of advice on the procedures of mediation and the alternative means of dispute resolutions,
 - iv) the delivery of assistance in drafting and establishing of documentation to put in motion the state administration or for requesting secondary legal aid,
 - v) representation before administration bodies, and
 - vi) the delivery of all other forms of necessary legal support not constituting secondary legal aid;
- c) *“Secondary legal aid”* is the legal service that is offered for the compilation of the necessary legal acts for putting in motion the court, the delivery of counselling, representation and defence before the court in administrative and civil cases and in criminal cases for which is not applied the mandatory defence in accordance of the criminal procedural legislation;
- ç) *“Counselling”* is the delivery of information on the manners and the possibilities of solution of a concrete legal matter;
- d) *“Primary legal aid service centre”* is a specialized unit for the delivery of primary legal aid organized as ‘direct unit offering services to the public’ as per the provisions of the law on the organisation and functioning of the state administration;
- dh) *“Specially trained officer”* is an officer, graduated from a second cycle of studies in law, as defined in the legislation in force on higher education and who has undergone a special training, and who has then been assigned with the duty to provide primary legal aid in a primary legal aid service centre;
- e) *“Special training”* is the initial and continuous training program approved by the Directorate on Free-of-Charge Legal Aid, for the officers that offer primary legal aid in the primary legal aid service centre.
- ë) *“Legal clinic”* is an organizational unit of a higher education institution, organised and functioning in accordance with the provisions of the legislation in force on higher education, and that delivers

primary legal aid without a profit motive, in accordance with the definitions in the statute of the higher education institution.

- f) *“Income”* in the meaning of this law are the monthly incomes that are secured by the family from wages, economic activity, interests from bank accounts, income from immovable property. In these income will not be included economic aid/social assistance, social pension, unemployment payments, benefits of invalids according to the status of the work of war invalid, payments received from household members that care for persons with disabilities, reimbursement of expenses for energy, reimbursement for medicines and medications for those chronically sick and the hygieno-sanitary package for persons with disabilities;
- g) *“Household”* is a set of persons, related by marriage or cohabitation or in a parent-child, in the family or custody/guardianship relationship, that are living under the same roof and jointly contributing, financially or otherwise, towards the cost of living;
- gj) *“Property”*, in the meaning of this law, is property of any kind, movable or immovable, as well as the real property rights. Real estate used by the owner or co-owner as his primary home and property excluded from seizure according to the Civil Procedure Code, are not considered property in the meaning of this law.
- h) *“Exemption from court fees and costs”* is a form of free-of-charge legal aid, for the exemption from payment of court fees and other court costs, by decision of the competent court, if the criteria imposed by this law are fulfilled.
- i) *“Court fees”* is the fee in accordance with the definition provided by the legislation in force on court fees in the Republic of Albania.
- j) *“Court costs”* are the expenses made in the framework of the judicial proceeding, necessary for adjudication in accordance with the meaning given in the procedural legislation, except for the court fee.
- k) *“Fee for initiating execution of the execution order”* is the fee that is prepaid to the state judicial bailiff service, for the initiating execution of an executive title, in accordance with the provisions of the legislation in force

Article 4

Principles of legal aid

Delivery of legal aid is based on the following principles:

- a) equal access to legal aid;
- b) equality and non-discrimination of individuals entitled to legal aid;
- c) professionalism in legal aid service delivery;
- ç) quality, efficiency and cost-effectiveness of delivered services of legal aid;
- d) confidentiality;
- dh) avoidance and prevention of conflict of interests;
- e) protection of the rights of vulnerable persons.

Article 5

Forms of legal aid

Legal aid is delivered in the following forms:

- a) primary legal aid,
- b) secondary legal aid;
- c) exemption from payment of court fees and other court costs according to the law and exemption from the obligation to prepay the fee for initiating execution of the execution order.

CHAPTER II

ORGANIZATION OF STATE GUARANTEED LEGAL AID

Article 6

Institutions responsible for administration and award of legal aid

The responsible institutions for implementation of this law are:

- a) the Minister of Justice;
- b) the Directorate for Free-of-Charge Legal Aid;
- c) the National Chamber of Advocacy;
- ç) the competent courts according to the provisions of this law.

Article 7

Tasks of the Minister of Justice

The Minister of Justice shall have the following responsibilities and execute the following tasks:

- a) develops the state policy in the field of legal aid;
- b) proposes to the Ministry of Finance the annual draft budget for legal aid, in compliance with the rules foreseen in the legislation for the management of the budgetary system;
- c) oversees the well-functioning of the legal aid system and the effectuation of the annual budget for legal aid;
- ç) reports every year in the Assembly on the situation of the system of legal aid;
- d) approves the following acts:
 - i) the form sheet of the request for primary legal aid;
 - ii) the form sheet of the request for secondary legal aid;
 - iii) the form sheet of the request for exemption from payment of court fees and other court costs;
 - iv) the form sheet of the self-declaration for primary legal aid;
 - v) the form sheet of the self-declaration of income and property in accordance to the objective of the law;
 - vi) the form sheet of the self-declaration for special categories according to Article 11 of this law;
 - vii) the form sheet of the register for the registration of the aforementioned requests and self-declarations;
 - viii) the form sheet of NGOs that offer primary legal aid;
 - ix) the form sheet of the appeal to the decision for dismissal of the request for secondary legal aid.

The Ministry of Justice shall take the necessary measures for the publication of the form sheets provided for in this paragraph in a format accessible by persons with disabilities.

- dh) approves the establishment of primary legal aid service centres, after having received prior the opinion of the High Judicial Council.
- e) approves the model contract with not-for-profit organizations for primary legal aid services as foreseen in this law, after having previously acquired the opinion of the Ministry responsible for finance.
- ë) approves the model contract with advocates for the delivery of secondary legal aid services.
- f) approves, after having received prior the opinion of the Directorate for Free-of-Charge Legal Aid and the National Chamber of Advocates, the criteria and methodology for assessing the quality of delivery of legal aid services and the procedures of the supervision by the Directorate for Free-of-Charge Legal Aid of secondary legal aid services;
- g) approves with a joint instruction with the minister responsible for Finances, after having received prior the opinion of the National Chamber of Advocacy, the criteria for receiving payments and the relevant remuneration fees to advocates, who provide secondary legal aid services;
- gj) approves the procedures that are followed by the Directorate for Free-of-Charge Legal Aid regarding the payments for court costs according to the provisions of this law;
- h) publishes the list of advocates offering secondary legal aid services and the list of authorised not-for-profit organisations that offer primary legal aid services on the official website of the Ministry of Justice;
- i) approves the rules and procedures for the collection, filling and administration of the information of the request register and the self-declarations of the subjects of this law and of the register of delivering primary legal aid;
- j) accomplishes all other tasks assigned to her or him by this law.

Article 8

Tasks of the Directorate for Free-of-Charge Legal Aid

1. The Directorate for Free-of-Charge Legal Aid is public legal person under the subordination of the Minister of Justice, in the meaning of the law for the organization and functioning of the state administration. The internal organization of the Directorate for Free-of-Charge Legal Aid shall be approved by the Prime Minister, upon the proposal of the Minister of Justice, in accordance with the legislation in force. The employment relations of the employees of the Directorate for Free-of-Charge Legal Aid are regulated by the legislation in force on the civil servant. The employment relationships of the specially trained officers attached to the primary legal aid service centre and of the support staff are regulated according to the Labour Code.
2. The Directorate for Free-of-Charge Legal Aid shall have these tasks:
 - a) effectuates the state policy in the field of legal aid;
 - b) submits to the Minister of Justice the quarterly reports on the effectuation of this law and on the use of the budgetary financial means allocated for the delivery of legal aid;
 - c) assesses the costs and plans the expenditures related to the delivery of legal aid and presents to the Minister of Justice to be included in the state budget;
 - ç) manages the budgetary funds for the delivery of legal aid;

- d) collects and analyses information on legal aid delivery to improve the functioning of the system of legal aid delivery and organizes public awareness raising campaigns on the availability of legal aid and the conditions for the benefit of it;
- dh) drafts the annual reports on its activity regarding the implementation of this law and of the state policy in the field of legal aid and presents them to the Minister of Justice;
- e) cooperates with international organisations, legal clinics, and not-for-profit organizations, both local and foreign, in the development of the legal aid system, through the raising of awareness and the legal education of the public;
- ë) drafts the model contract with not-for-profit organizations for primary legal aid services as foreseen in this law;
- f) concludes contracts with not-for-profit organizations for primary legal aid services as foreseen in this law, and effects the respective payments;
- g) cooperates with the Department of Public Administration for the approval of the initial and continuous training programs for the specially trained officers, supervises their implementation and revises periodically the standards of professional training and the performance of specially trained officers;
- gj) administrates, on the basis of the respective order of the Minister of Justice, primary legal aid service centres at the premises of District Courts or at other suitable premises, in accordance with the legislation in force on the state administration;
- h) publishes the list of advocates who offer secondary legal aid services on the official of the Directorate for Free-of-Charge Legal Aid;
- i) publishes the model contract with advocates for the delivery of secondary legal aid services, after approval by the Minister of Justice;
- j) makes the payments, based on the relevant fees for the remuneration of advocates, who offer secondary legal aid services in accordance with the provisions of this law;
- k) signs until 1 March of every calendar year, the yearly service contracts with the advocates included in the list approved by the National Chamber of Advocacy for the delivery of secondary legal aid;
- l) implements the system for the evaluation of the quality of delivery of legal aid;
- ll) monitors every year the delivery standards of primary and secondary legal aid services by the non-for-profit organisations and the advocates;
- m) effectuates the rules on the reimbursement of payments, in accordance with this law and protects the interests of the state budget;
- n) drafts and proposes to the Minister of Justice the sublegal acts in accordance of the provisions of this law.
- o) maintains, collects, completes and administers the data of the register of requests and self-declarations of subjects of this law and the data of the register of non-for-profit organizations offering primary legal aid according to the rules and procedures approved by the Minister of Justice;
- p) accomplishes all other tasks assigned to it by this law.

Article 9

Responsibilities and tasks of the National Chamber of Advocacy

The National Chamber of Advocacy shall have the following responsibilities and execute the following tasks:

- a) approves, by joint instruction with Advocacy and the Directorate for Free-of-Charge Legal Aid, the criteria and procedures for the selection of advocates delivering secondary legal aid services;
- b) approves, in cooperation with the Ministry of Justice, the rules on the implementation of the principle of rotation in the appointment of advocates that offer secondary legal aid services in accordance with the provisions of Article 245 of this law and monitors their effectuation from the local chambers of advocacy;
- c) within the date of 1 February of every calendar year, the National Chamber of Advocates approves the list of advocates for the delivery of secondary legal aid services, and forwards this list to the Ministry of Justice, the Directorate for Free-of-Charge Legal Aid and the local chambers of advocacy. In the drafting of this list, the National Chamber of Advocates shall take into account, to the extent possible, the inclusion of advocates of all specialties and levels and the respect of equal gender representation;
- ç) publishes the list of advocates offering secondary legal aid services on the official website of the National Chamber of Advocacy;
- d) prepares and organizes the continuous training programs for advocates who are on the list of advocates for the delivery of secondary legal aid services, in cooperation with the Directorate for Free-of-Charge Legal Aid;
- dh) accomplishes all other tasks assigned to it by this law.

CHAPTER III

BENEFICIARIES OF STATE GUARANTEED LEGAL AID

Article 10

Beneficiaries of legal aid

Subjects that shall be beneficiaries of legal aid are:

- a) albanian citizens with domicile or residence in the territory of the Republic of Albania;
- b) foreign citizens or stateless persons, who stay in the territory of the Republic of Albania for a temporary or permanent period and who have been equipped with permit of stay in compliance with the legislation in force on foreigners;
- c) foreign citizens or stateless persons, that enter legally in the territory of the Republic of Albania, and that benefit it on the basis of international agreements ratified by the Republic of Albania or based on the principle of reciprocity;
- ç) asylum seekers, persons entitled to the status of refugee and persons that are in the process of appeal of administrative and/or judicial decisions for the refusal of the application for asylum or revocation of the decision on the status of refugee in accordance with the legislation in force for asylum in the Republic of Albania.

2. The subjects foreseen in paragraph 1 of this article shall benefit legal aid, if fulfilling the criteria foreseen in this law.

Article 11

Special categories of beneficiaries of legal aid

Legal aid shall be granted to the following persons, regardless of their income and their property:

- a) victims of domestic violence;
- b) sexually abused victims and human trafficking victims, at any stage of a criminal proceeding;
- c) minor victims and minors in conflict with the law, at any stage of a criminal proceeding;
- ç) children living in social care institutions;
- d) children under guardianship who request to initiate a proceeding without the approval of their legal guardian or against their legal guardian;
- dh) persons that benefit from the payment for disability in compliance with the provisions of the law on social aid and services, including also persons that benefit from the status of blindness;
- e) persons undergoing involuntary treatment in mental health service institutions according to the provisions of the legislation in force on mental health;
- ë) persons undergoing voluntary treatment in mental health service institutions for serious mental diseases;
- f) persons against whom the removal or restriction of the capacity to act is requested, at any stage of this proceeding;
- g) persons with removed or restricted capacity to act who request to initiate a proceeding against their legal guardian, for regaining the capacity to act without the approval of the legal guardian.
- gj) persons who are beneficiaries of social protection programs.
- h) persons to whom the right has been infringed through an action or inaction that constitutes discrimination on the basis of the decision of the competent organ, according to the legislation in force for protection from discrimination.

Article 12

Beneficiaries of legal aid in case of insufficient income and property

1. The right to benefit legal aid is possessed by everyone that proves that they have insufficient income and property to bear the costs for counselling, representation and/or defence in criminal cases, in administrative and in civil law cases.
2. The income of a person living in a household shall be considered insufficient in the meaning of paragraph 1 of this article, if the total income of all household members, divided by their number, is lower than 50 percent of the monthly minimum wage, as defined according to the legislation in force.
3. The income of a person, not living in a household, shall be considered insufficient in the meaning of paragraph 1 of this article, if it is lower than the level of the monthly minimum wage, as defined according to the legislation in force.
4. If a person living in a household requests legal aid for a case against another member of the same household, paragraph 2 of this article shall not apply. The income of this person shall be

considered insufficient in the meaning of paragraph 1 of this article if it is lower than the level of the minimum wage, as defined according to the legislation in force.

5. The property of a person shall be considered insufficient in the sense of paragraph 1 of this article, if its total value does not exceed the value of 36 monthly minimum wages, as defined according to the legislation in force.

CHAPTER IV PRIMARY LEGAL AID

Article 13 Delivery of primary legal aid

Primary legal aid shall be delivered from:

- a) specially trained officers,
- b) not-for-profit organizations,
- c) legal clinics attached to higher education institutions.

Article 14 Delivery of primary legal aid through specially trained officers

Primary legal aid shall be delivered at legal aid service centres or in other suitable premises in accordance with the provisions of the law, by specially trained officers employed at these centres.

Article 15 Delivery of primary legal aid by the not-for-profit organizations

1. Non-profit organizations provide primary legal aid services in compliance with the authorisation approved by the Ministry of Justice. The procedures and documentation for their authorisation are determined by decision of the Council of Ministers.
2. Non-profit organizations that are authorized for delivery of primary legal aid services shall fulfil the following criteria:
 - a) be registered in accordance with the legislation in force for non-profit organizations;
 - b) to have as the object of their activity provided for in the statute the provision of legal aid services;
 - c) have paid their tax obligations in accordance with the legislation in force;
 - ç) to have experience in the delivery of legal aid;
 - d) not be in the process of bankruptcy and / or liquidation;
 - dh) the members of the highest decision-making body and the executive body of the Non-Profit Organization shall not be sentenced by a final court decision for committing an intentional criminal offense which would endanger the public trust and proper delivery of primary legal aid.

3. The non-for-profit organizations authorised for the delivery of primary legal aid receive financing by the state budget, after a competitive and transparent selection process. The procedure, rules of selection of authorised non-for-profit organizations, that benefit financing by the state budget and the manner of their financing shall be defined by decision of the Council of Ministers.

Article 16

Delivery of primary legal aid by legal clinics

1. Primary legal aid shall be delivered by Legal Clinics, established at higher education institutions.
2. The Directorate for Free-of-Charge Legal Aid shall collaborate with legal clinics in accordance with the conditions and criteria foreseen in the respective cooperation agreements, for the training and the improvement of knowledge of students participating at these clinics, on issues connected to primary legal aid.

Article 17

The request and procedure for delivery of primary legal aid

1. The request for delivery of primary legal aid shall be made orally or in writing by the interested person to a primary legal aid service centre or an authorised not-for-profit organization.
2. The person requesting to benefit primary legal aid in accordance with paragraph 1 of this article, shall sign a self-declaration that he/she satisfies the criteria defined in this law, in accordance of the self-declaration form approved by the Minister of Justice, accompanied with the justifying documentation. The list of documents that shall serve for certification of fulfilment of criteria shall be defined by order of the Minister of Justice.
3. Primary legal aid is delivered immediately upon request. In case immediate primary legal aid service delivery is impossible, the person shall immediately be informed on the date and time of the delivery of the requested service.
4. A person shall be entitled to delivery of primary legal aid services on the same issue or case only once, except for instances when new relevant circumstances justify the delivery of further primary legal aid services to the same person, on the same issue or case.
5. In case that in the course of delivery of primary legal aid services, a conflict of interest is detected, this service shall be interrupted immediately. In case where primary legal aid is provided by a primary legal aid service centre, the case is dealt with in accordance with the provisions of the Code of Administrative Procedures for the avoidance of conflict of interest. In the case of primary legal aid provided by an authorised non-profit organization, the latter shall take measures to avoid the conflict of interest in accordance with legal provisions in force, by ensuring the delivery of primary legal aid services to the applicant.
6. If it becomes evident in the course of delivery of primary legal aid services that the need for delivery of secondary legal aid services exists, the person shall immediately be informed for the conditions of award of secondary legal aid and shall be assisted in completing a request for the delivery of secondary legal aid.
7. During delivery of primary legal aid services shall be kept a record which shall contain:
 - a) name, surname and personal identification number of the applicant;
 - b) domicile address, contact data, family status, employment status of the applicant;

- c) short description of the issue or case for which primary legal aid services have been requested;
 - ç) if applicable, length of the meeting or meetings;
 - d) short description of the delivery of primary legal aid services and outcome of this delivery.
 - dh) declaration that the applicant has not benefitted prior primary legal aid for the same problem or issue;
 - e) other data in accordance of the format approved by the Minister of Justice.
8. The storage and processing of personal data of applicants for primary legal aid services shall be made in compliance with the provisions of the law for the protection of personal data.

CHAPTER V

SECONDARY LEGAL AID

Article 18

Delivery of secondary legal aid

Secondary legal aid is provided by advocates included in the list approved by the National Chamber of Advocates, upon the request of the person entitled to receive secondary legal aid under articles 11 or 12 of this law. The application is drafted according to the request form sheet approved by the Minister of Justice.

Article 19

Request for secondary legal aid

1. The request for delivery of secondary legal aid shall be filed by the interested person, personally or through the postal service, to the court or proceeding body that commences investigation, before the initiation of a judicial proceeding, at the initiation of a judicial proceeding and/or at any stage of a judicial proceeding, until judicial investigation has not been declared closed, in accordance with the rules provided for in the procedural legislation.
2. The person entitled to secondary legal aid may submit the request foreseen in paragraph 1, of this law, through a legal representative or a representative supplied with power of attorney, or by the spouse, cohabitant or kin relation of the first degree.
3. The request for secondary legal aid shall be exempted from court fees and costs.
4. The person, who seeks to benefit secondary legal aid shall sign a self-declaration of fulfilment of the criteria for benefitting as defined in this law, according the self-declaration form sheet approved by the Minister of Justice accompanied with the justifying documentation. The list of documents that shall serve for certification of fulfilment of criteria shall be defined by order of the Minister of Justice.

Article 20

Submission of request for secondary legal aid and the competent organ for its examination

1. The request for secondary legal aid shall be filed at the court competent for examination of the trial on the merits, except when provided otherwise in this law.

2. The request for secondary legal aid of the defendant without sufficient financial means shall be submitted to the proceeding body that commences investigation in accordance with article 21 of this law.

Article 21

Procedure for delivery of secondary legal aid for the defendant without sufficient financial means

1. In the case the request for secondary legal aid is filed by the defendant without sufficient financial means, the proceeding body that commences investigation shall immediately examine whether the criteria stipulated in Article 12 of this law are fulfilled.
2. If the proceeding body that commences investigation values that the criteria are fulfilled, it shall immediately appoint a defence lawyer from the list of advocates for the delivery of secondary legal aid, and shall immediately inform the person to whom secondary legal aid has been granted, as well as the defence lawyer that has been appointed.
3. The decision for accepting or dismissing the request for secondary legal aid shall be reasoned and shall be communicated to the applicant and the Directorate for Free-of-Charge Legal Aid.
4. The applicant may object against the decision of the proceeding body for dismissing the request for secondary legal aid, with a lawsuit at the criminal court of first instance, competent for examination of the trial on the merits, within 5 days from the receipt of notice on this decision.
5. The court shall examine the case with one judge, in accordance with the rules foreseen in the procedural legislation, within 15 days from registration of the case. Against this decision shall be allowed special appeal at the court of appeal within 5 days from the receipt of notice. The court of appeal shall examine the appeal in consultation chamber within 10 days from the date of receipt of acts.
6. The High Prosecutorial Council shall approve the rules and procedures to be followed by the proceeding body that commences investigation in the appointment on the basis of the principle of rotation of the defence lawyer and his substitution from the list of advocates that offer the services of secondary legal aid in the criminal process.
7. Detailed rules in connection with the guarantee of obligatory defence from the institutions foreseen in this law, according to the provisions of the Criminal Procedure Code shall be approved by the High Prosecutorial Council.

Article 22

Examination of the request for secondary legal aid by the court

1. The court examines the request for secondary legal aid in compliance with the provisions of the procedural legislation and as much as possible, with the provisions of this law.
2. The decision in connection with the request for secondary legal aid shall be taken by the competent court:
 - a) within 5 days from the date of receipt of the request, when the request has been submitted before initiation of the judicial proceeding;

- b) during the preliminary actions or in the preparatory session before the scheduling of the judicial session/hearing, when the request for legal aid has been submitted together with the statement of claim;
 - c) according to the provisions of the procedural legislation and the provisions of this law, when the request has been filed during judicial examination.
3. In cases where the applicant declares the impossibility of securing the documentation, as well as in any other case where the court values that the correction or completion of the request may be cause for delays which affect the essence of the rights of the applicant, the court may order the submission of the necessary documentation from the state administration bodies that possess it. In these cases, the request for secondary legal aid is deemed to be filed at the end of the time limit imposed by the court for presentation of the missing document by the state administration body.
 4. The Court, in compliance with the provisions of this law and the provisions of the procedural legislation, after examination of the request, shall decide:
 - a) acceptance of the request for delivery of secondary legal aid;
 - b) dismissal of the request for delivery of secondary legal aid.
 5. The request for secondary legal aid shall be dismissed only in cases when:
 - a) the conditions stipulated in Article 11 and 12 of this law are not fulfilled;
 - b) is evidently abusive or manifestly ill-founded.
 6. The decision for the approval and dismissal of the request for secondary legal aid shall be reasoned.
 7. Against the decision of the court dismissing the request for secondary legal aid, may be made a special appeal. The appeal of the decision does not hinder the continuation of adjudication of the case.

The appeal shall be made through the template form sheet approved by the Minister of Justice, which is given to the application together with the decision for the dismissal of the request.
 8. The court of appeal shall examine the case in consultation chamber and shall take the decision within 15 days from receipt of the acts. Against this decision a recourse is not permitted.
 9. The Directorate for Free-of-Charge Legal Aid may appeal the decision of the court for acceptance of the request for secondary legal aid, when it claims that this request is evidently abusive or manifestly ill-founded. In this case shall be applied the time-limits and the rules for appeal of final decisions in accordance with the provisions of the procedural legislation. Against the decision of the court of appeal is not allowed a recourse to the High Court.

Article 23

Notification of the decision of the court

The decision of the court on the request for secondary legal aid shall immediately be notified to:

- a) the applicant;
 - b) the person who has submitted the request for secondary legal aid, if different from the applicant;
 - c) the proceeding body, if the conditions of article 21 of this law apply.
 - ç) the Directorate for Free-of-charge Legal Aid;
 - d) the local chamber of advocacy, in case the request for secondary legal aid has been approved.
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Article 24

Delivery of secondary legal aid by advocates

1. Advocates that deliver secondary legal aid services shall fulfil these criteria:
 - a) have applied with the National Chamber of Advocacy and have been put by the National Chamber of Advocacy on the list of advocates who deliver secondary legal aid;
 - b) have concluded a yearly service contract with the Directorate for Free-of-Charge Legal Aid;
 - c) have been appointed for the delivery of secondary legal aid services by the proceeding body or the local chamber of advocacy;
 - ç) have specialised in fields of law, when specialisation is necessary, as in the case of representation of minors, of victims and in other cases provided for by law.
2. In case of approval of the request for secondary legal aid, shall be acted according to the following rules:
 - a) The local chamber of advocacy shall appoint an advocate from the list of advocates for the delivery of secondary legal aid services according to the principle of rotation.
 - b) The local chamber of advocacy shall forward the decision of the competent court, together with its decision on the appointment of the advocate, to the latter and to the person to whom the request for secondary legal aid has been granted.
3. The provisions of paragraph 2 of this article shall not be applied in the case when the request for secondary legal aid has been presented by the defendant without sufficient financial means to the proceeding body that commenced investigation.
4. The appointed advocate, immediately after being acquainted with the decision of the competent court and the decision of the local chamber of advocacy or the decision of proceeding body on his appointment as an advocate for the delivery of secondary legal aid, shall enter into contact with the person to whom secondary legal aid has been granted and shall start with the delivery of the requested services.
5. The appointed advocate shall be replaced by another advocate from the list of advocates for the delivery of secondary legal aid services, only in case a conflict of interest is detected between the advocate and the person to whom the request for secondary legal aid has been approved.
6. A decision of the replacement of the appointed advocate by another advocate from the list of advocates for the delivery of secondary legal aid services shall be taken from:
 - a) the proceeding body in case the advocate to be replaced was appointed by this body;
 - b) the local chamber of advocacy, in case the advocate to be replaced was appointed by it.

CHAPTER VI

EXEMPTION FROM PAYMENT OF COURT FEES, COURT COSTS AND FROM THE OBLIGATION FOR PREPAYMENT OF FEES FOR INITIATING EXECUTION OF THE EXECUTION ORDER

Article 25

Beneficiaries

Persons, entitled to secondary legal aid according to articles 11 or 12 this law, shall be entitled to exemption from:

- a) payment of general and special court fees as defined in the law on court fees in the Republic of Albania;
- b) payment of court costs (expenses for translators, witnesses, experts, site inspection or examination of items *in situ*) as defined in the procedural legislation;
- c) the obligation for prepayment of the fee for initiating execution of the execution order to the state judicial bailiff service.

Article 26

Request for exemption from payment of court fees and court costs

1. Exemption from payment of court fees and court costs shall be granted upon a request that is drafted in accordance of the request form sheet approved by the Minister of Justice.
2. The request for exemption from payment of court fees and court costs may be presented:
 - a) together with the request for secondary legal aid;
 - b) attached to the statement of claim, in compliance with the provisions of the procedural legislation;
 - c) at any phase of the proceeding until judicial investigation has not been declared closed.
3. In the request for exemption from payment of court fees and court costs may be asked exemption from payment of one, several or all court fees and/or court costs, as defined in Article 25 of this law.
4. The request for exemption from payment of court fees and court costs can be filed by the person entitled to exemption from payment of court fees and court costs, by a legal representative or a representative equipped with power of attorney, or by the spouse, cohabitant, or kin relation of the first degree.
5. The request for exemption from payment of court fees and court costs can be filed personally or through the postal service.

Article 27

Procedure of examination of the request

1. The request for exemption from payment of court fees and court costs shall be submitted to the competent court for examination of the trial on the merits.
 2. The court examines the request in compliance with the provisions of the procedural legislation and as far as possible with the provisions of article 22 of this law.
 3. The court in compliance with the provisions of this law and the provisions of the procedural legislation, after examination of the request shall decide:
 - a) approval of the request for exemption from payment of court fees and other court costs;
 - b) dismissal of the request for exemption from payment of court fees and other court costs;Against the decision of the court may be made an appeal in accordance with the provisions of article 22 of this law.
 4. The decision on acceptance of the request for exemption from payment of court fees and court costs shall be immediately notified to the Directorate for Free-of-Charge Legal Aid.
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Article 28

Effectuation of the decision

1. The decision on approval of exemption from payment of court fees and court costs shall constitute an executive title and shall be executed in compliance with the provisions of the procedural legislation.
2. Payment of court costs, for which the exemption has been granted, shall be borne by the budget approved by the Ministry of Justice and shall be paid by the Directorate for Free-of-Charge Legal Aid.
3. The payments that are paid by the Directorate for Free-of-Charge Legal Aid, according to paragraph 2, of this law, may not surpass the amount of remuneration of experts and witnesses in a judicial proceeding, defined by the Council of Ministers.
4. The rules and the procedures of making the payments, according to paragraph 2, of this article, shall be defined by instruction of the Minister of Justice, after taking the opinion of the ministry responsible for finance.

Article 29

The right not to prepay the fee for initiating execution of the execution order

Persons who have benefited secondary legal aid under the provisions of this law, shall be entitled for not prepaying the fee for initiating execution of the execution order to the state judicial bailiff service.

CHAPTER VII REIMBURSEMENT

Article 30

Obligations of the losing litigant party in civil and administrative cases

1. When the party which has been exempt from payment of court fees and court costs, in accordance with this law, wins by a final decision the case for which secondary legal aid and/or exemption from court fees and court costs has been granted, the other party that lost the case shall be charged the payment of court fees and court costs in accordance with the court decision and is obliged to deposit this amount immediately to the account of the Directorate for Free-of-Charge Legal Aid.
2. In case the decision is not voluntarily executed, by request of the Directorate for Free-of-Charge Legal Aid, the judicial bailiff service shall begin the obligatory execution procedures in accordance with the legislation in force.

Article 31

Cases of reimbursement of benefits

1. In case that a person, to whom has been accepted the request for secondary legal aid and/or the exemption from court fees and costs, has had his circumstances changed in such a way that he/she does not fulfil the legal criteria for being benefiting subjects of secondary legal aid, the Directorate

for Free-of-Charge Legal Aid, shall notify to the beneficiary of legal aid the obligations for the voluntary reimbursement of expenses made, the concrete amount and the time-limit for fulfilment of this obligation. The procedure, the periodicity and the rules of verification of the change of circumstances shall be defined by order of the Minister of Justice.

2. In the event of lack of a voluntary execution of the obligation for reimbursement of expenses within the set time-limit, the Directorate for Free-of-Charge Legal Aid, shall file a statement of claim to the court by requesting the reimbursement of the sum in compliance with the legislation in force.
3. The provisions of paragraphs 1 and 2, of this article, shall be applied also in the instance when the person, to whom the request for secondary legal aid and/or exemption from court fees and court costs has been approved or the appointed advocate:
 - a) has not filed the statement of claim in the court, after passage of a three-month time-limit from the date when the decision of the court for acceptance of the request for secondary legal aid has taken a final form;
 - b) has withdrawn from the adjudication of the lawsuit, from the right of the lawsuit, from appeal and recourse, or from the execution of the execution order.

Article 32

Reimbursement in case of false or untrue information

1. The applicant that has benefited secondary legal aid and/or exemption from court fees and court expenses by presenting false or untrue data, is obliged to reimburse the costs for the advocate delivering secondary legal aid services and/or the court costs. Independent from the reimbursement of these expenses, the Directorate for Free-of-Charge Legal Aid shall make a criminal report, when concluding that there are elements of a criminal act.
2. In case the request for secondary legal aid and/or exemption from court fees and court costs containing false or untrue information has been submitted by a person other than the person to whom secondary legal aid and/or exemption from court fees and court costs has been granted, the applicant and beneficiary of secondary legal aid and/or exemption from court fees and court costs, are solitarily liable to reimburse the costs defined in paragraph 1 of this Article.
3. The reimbursement of expenses, under paragraphs 1 and 2 of this Article, shall be made according to the request of the Directorate for Free-of-Charge Legal Aid. In case of lack of voluntary execution, the Directorate for Free-of-Charge Legal Aid, shall file a statement of claim at the court to request the reimbursement of the sum in accordance with the legislation in force.

CHAPTER VIII

FINAL AND TRANSITIONAL PROVISIONS

Article 33

Budget

1. The costs for state guaranteed legal aid, in all its forms, are covered by the state budget and by other legitimate sources.

2. Funds for state guaranteed legal aid constitute a separate item in the budget of the Ministry of Justice.

Article 34

Bylaws

1. The Council of Ministers is charged that within three months from the entry into force of this law, to approve the bylaws in effectuation of article 15, paragraphs 1 and 3, and article 28, paragraph 3, of this law.
2. The Minister of Justice is charged that within three months from the entry into force of this law, to approve the bylaws in effectuation of article 7, letters “d”, “e”, “ë”, “f”, “gj” and “i”, article 17 paragraph 2, article 19 paragraph 4, article 28 paragraph 4 and paragraph 31 paragraph 1 of this law.
3. The Minister of Justice and the Chairperson of the National Chamber of Advocates are charged that within three months from the entry into force of this law, to approve the bylaws in effectuation of article 9, letter “b”, of this law.
4. The Head of the Directorate of Free-of-Charge Legal Aid and the Chairperson of the National Chamber of Advocacy are charged that within 1 month from the establishment of the Directorate of Free-of-Charge Legal Aid, to approve the bylaw in effectuation of article 9, letter “a”, of this law.
5. The Minister of Justice and the minister responsible for finances are charged that within three months from the entry into force of this law, to approve the bylaws in effectuation of article 7, letter “g”, of this law.
6. The High Prosecutorial Council is charged that within 3 months from its creation to approve the bylaw in effectuation of article 21, paragraphs 6 and 7, of this law.
7. The bylaws approved in effectuation of this law shall be published also in the official website of the Ministry of Justice, the Directorate of Free-of-Charge Legal Aid and the National Chamber of Advocacy as well as through other appropriate means.

Article 35

Publications

Form sheets of presentation of requests and of self-declarations provided for in article 7, letter ‘d’, of this law shall be published in the in the official websites of the Ministry of Justice, the National Chamber of Advocates and the Directorate of Free-of-Charge Legal Aid.

Article 36

Transitory provisions

1. The State Commission for Legal Aid shall cease to operate upon the establishment of the Directorate of Free-of-Charge Legal Aid.
2. The Directorate of Free-of-Charge Legal Aid shall be established within 3 months of the entry into force of this law.
3. The primary legal aid service centres shall be established within 3 months of the establishment of the Directorate of Free-of-Charge Legal Aid.

4. The State Commission for Legal Aid shall complete the examination of all received legal aid requests prior to the date of entry into force of this law, in accordance with the provisions of law 10039, dated 22.12.2008, "On legal aid".
5. The requests for secondary legal aid that were presented before the entry into force of this law, and that have not been examined by the State Commission for Legal Aid until the date of entry into force of this law, shall be treated in accordance with the rules foreseen in this law.
6. For the existing civil servants of the secretariat of the State Commission for Legal Aid shall be applied the provisions of the legislation in force for civil servants in cases of dissolution or restructuring of the institution.
7. The administrative staff of the State Commission for Legal Aid shall be treated according to the provisions of the Labour Code.
8. All rights, obligations, existing legal aid service centres, the budget, as well as the administrative and financial documentation of the State Commission for Legal Aid after the entry into force of this law shall be transferred and administered by the structures of the Ministry of Justice.
9. Until the establishment of the High Prosecutorial Council, the duties foreseen by this law for this body shall be carried out by the Minister of Justice.
10. The bylaws issued in effectuation of law no. 10 039, dated 22.12.2008 "On legal aid", as amended, shall remain in force until the approval of the new bylaws in effectuation of this law, for as long as they do not contradict the provisions of this law.

Article 37

Repeals

Law no. 10039, dated 22.12.2008, "On legal aid", as amended, shall be repealed.

Article 38

Entry into force

This law shall enter into force on 1 June 2018.

Approved on 14.12.2017