

HIGH COUNCIL OF JUSTICE, REGULATION **KËSHILLI I LARTË I DREJTËSISË, RREGULLORE**

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 Regulation for Disciplinary Proceedings on Judges

Data of compilation 29.05.2015; done by Robert Gerbi

DECISION

No. 137, dated 21.02.2003¹

REGULATION

DISCIPLINARY PROCEEDINGS ON JUDGES

Pursuant to Article 33, paragraph 3, of Law 8811, dated 17.05.2001, "On the organization and functioning of the High Council of Justice", the High Council of Justice of the Republic of Albania decided

Article 1

1. Disciplinary proceeding for judges is put into motion by the Minister of Justice

Article 2

1) The request on disciplinary proceedings for judges is filed by the Minister of Justice in the High Council of Justice.

¹ Amended by Decision No.282.9, dated 16.12.2011

2) Violations of the law that constitute disciplinary offenses and the type of measure that is considered to be taken against the judge subject to disciplinary proceedings are to be determined in the request for disciplinary proceedings.

3) The following must be attached to the request:

- a) Documents containing relevant data that prove the violation by the judge;
- b) Statement of the judge that he has been asked to submit his claims in writing regarding the proceeding;
- c) Claims of the judge that is subject of proceedings, if he has submitted them.

Article 2/a²

1. The judge, against whom a disciplinary proceeding has started, is entitled:

- a) To be presumed innocent;
- b) To be informed clearly and in detail about the facts alleged, violations and sanctions that may be imposed, as well as for the inspector assigned;
- c) To formulate claims and demands;
- d) To be acquainted with the documents of the disciplinary proceedings and to file sufficient evidence, at any time up to the moment that he is heard before the High Council of Justice;
- d) To have the assistance of a lawyer or colleague during the proceedings and be heard in his presence.

2. No new and more aggravating rules can be applied against the judge in a proceeding that has begun earlier.

3. A judge cannot be subject of proceedings for the same acts and behaviour, for which he has been adjudicated in a previous disciplinary process.

4. The judge, in the course of a disciplinary proceeding shall be guaranteed all the rights and guarantees of a due legal process, in the sense of Article 42/2 and 131/f of the Constitution of the Republic of Albania, to the extent they are compatible with the nature and purpose the procedure and without affecting its substance.

Article 3

1. The request for disciplinary proceedings, immediately after being filed, is registered in the Register of Disciplinary Proceedings of the High Council of Justice.

² Added by Decision No.282.9, dated 16.12.2011

2. A separate file is formed for each request, where are put all documents of the proceedings.

Article 4

1. A copy of the disciplinary proceeding documents are made available to any member of the High Council of Justice no later than forty-eight hours before the date set for the meeting that will consider the proceeding.

Article 5

1. The meeting of the High Council of Justice, which will consider the disciplinary proceedings against a judge, should be set no sooner than ten days from the date that the complete proceeding materials are made available to the judge.

Article 6

1. The judge, against whom will be conducted the disciplinary proceedings, shall be notified of the date, time and place of the meeting, at least forty-eight hours before its start.

Article 7

1. The High Council of Justice, before it starts reviewing of disciplinary proceedings, verifies the presence of the judge against whom the proceedings are conducted.

2. The High Council of Justice examines the causes of the failure to appear, if a judge is not present.

3. The High Council of Justice may consider the disciplinary proceedings and decide on disciplinary measures, if the failure of a judge to appear was made without reasonable causes.

4. The High Council of Justice postpones the consideration of disciplinary proceedings to the nearest meeting after the cause of failure to appear has extinguished, if the failure of the judge to appear is made on reasonable grounds.

Article 8

1. The High Council of Justice reviews any prior request of the Minister of Justice or of the judge subject to proceedings, before it considers the disciplinary proceedings.

2. Review of the disciplinary proceedings begins by hearing the reasons of proceedings put forward by the Minister of Justice.

3. The judge subject to disciplinary proceedings and/or his lawyer are heard after the presentation of the reasons put forward by the Minister.

4. Any member of the High Council of Justice may ask questions to the judge subject to disciplinary proceedings to clarify the issues which need to be clarified.

Article 9

1. The High Council of Justice, without the presence of the judge, proceeds with the final discussion, after the answers of the judge subject to disciplinary proceedings.

2. The High Council of Justice proceeds with voting of the disciplinary measure proposed by the Minister of Justice, after the final discussion.

3. The High Council of Justice, if during the final discussion regarding the decision on the disciplinary measure, deems that it is necessary to conduct some checks on certain issues of disciplinary proceedings, asks the Inspectorate of the High Council of Justice through a decision to perform them.

4. The Inspectorate, within fifteen days carries out the verification procedures in accordance with Article 16, paragraph 1, letter "b" and Article 31, paragraph 7, of Law 8811, dated 17.05.2001, "On the organization and functioning of the Council High Justice ", and prepares the respective report. This report is submitted to the High Council of Justice by the Deputy Chairman in the nearest meeting.

Article 10

1. The High Council of Justice makes the decision with a majority vote of the members present at the meeting with an open vote. The proposal of the Minister of Justice on the disciplinary measure is considered rejected in cases where the votes are divided equally.

2. The Council, by a majority vote of the members present, may decide that the decision to take disciplinary measure be made with a secret ballot, if the disciplinary proceeding is conducted against a judge who is a member of the High Council of Justice. In this case, the High Council of Justice establishes a voting committee consisting of three members of the Council who are present and sets the voting procedure.

Article 11

1. If the High Council of Justice accepts the disciplinary measures proposed by the Minister, the review of disciplinary proceedings is closed and the decision is notified to the judge subject to disciplinary proceedings.
2. The Minister has the right to dispose of the claim made by him at any time until the voting has started.
3. If the High Council of Justice dismisses the disciplinary measures proposed by the Minister, the latter may immediately propose a lesser disciplinary measure which is voted on immediately. If the High Council of Justice dismisses even the second proposal for a lesser disciplinary measure, the consideration of disciplinary proceedings is closed and the decision is notified to the judge subject to disciplinary proceedings.
4. The decision of the High Council of Justice on a disciplinary measure is reasoned.

Article 12

1. Every previous provisions and amendments regarding disciplinary proceedings for judges shall be repealed with the entry into force of this Regulation.

Article 13

1. This Regulation shall enter into force on 21.02.2003

THE HIGH COUNCIL OF JUSTICE