

**Trip Report
May 11, 2010**

Project Name: Macedonian Judicial Reform Implementation Project.

Consultant: Joseph J. Traficanti Jr.

Dates of Consultancy: April 7, to May 11, 2009 (Total of 18 days including off-site work and travel)

Description of Consultancy: The Judicial Reform Implementation Project (JRIP), a USAID sponsored project, has actively supported the implementation of a modern, independent and accountable judiciary of the Republic of Macedonia. Over the life of the project there have been several levels of support for number of important initiatives. Macedonia has made great strides with the aide and assistance of USAID in modernizing court operations over several years including the adoption of and/or amendments to a number of laws and sub-regulations aimed at streamlining court operations and automating important case management processes. The Judicial Council of the Republic of Macedonia is a nascent body, which requires support to build its capacity as a functioning administrative body within the judiciary and assistance to secure its sustainability.

This consultant has been retained for periodic consultations under a blanket contract for the remainder of the project on an “as needed” basis at the discretion of the chief of party. This consultancy consisted of two overlapping missions –one to assist JRIP and staff with the development of a proposed Code of Ethics for Judicial Council members and a separate Code of Ethics for the staff and management personnel of the Judicial Council. The major portion of consultant’s time was spent on this task, as expected. Secondly, the consultant was tasked with advising the Ministry of Justice, the Supreme Court General Secretary and the Association of Court Administrators on proposed revisions of the Law on Court Services by reviewing proposed amendments, discussing with policy makers (General Secretary and MOJ representatives), and commending on proposed amendments.

Names and Dates of Counterparts met during Consultancy (including staff and consultants):

April 20th:

- Orientation meeting with COP, Sam Juncker, Staff Attorney Filip Janiceski regarding various phases of the consultancy and best strategies for success.
- Orientation meeting with Judge Nasar Hadzi Ahmetagic, deputy president of the Judicial Council
- Orientation Meeting with general secretary of Judicial Council, Elizabeta Vaskova
- Working session at Hotel Arka with Judge Nasar Hadzi Ahmetagic
- Meeting with US Embassy representatives with Chief of Party, Sam Juncker and CTOR Antoaneta Skartova for briefing on plans for consultancy

April 21st:

- Working session with staff of Judicial Council including General Secretary, Vaskova

April 23rd:

- Working drafting session with Judge Nasar Hadzi Ahmetagic and Judicial Council member Branko Ushkovski

April 27th:

- Working session and reviewing draft code of ethics with selected members of the Judicial Council

April 28th:

- Final drafting and working session with six selected members of the Judicial Council
- Meeting with Dimitar Georgievski from Ministry of Justice regarding proposed and possible changes to the Court Services Law

April 29th:

- Meeting with Sonjia Guerevska, secretary general of the Supreme Court regarding possible changes to the Law on Court Services
- Meeting with USAID mission director, Michael Fritz, Democracy and Governance Head Kenneth Lazio, chief of party of JRIP, Sam Juncker, and CTOR Antoaneta Skartova
- Meeting with US Embassy representatives, JRIP COP and CTOR, Antoaneta Skartova

April 30th:

- Follow-up working session with staff/employees of the Judicial Council

Those participants that untimely took part in both the Judicial Council Working Group and the Staff and Employees Working Group are as follows:

Judicial Council

Naser HadziAhmetagic - member and Deputy President of the JC

- Branko Ushkovski - the newest member
- Bujar Sabriu - member
- Bashkim Besimi - member
- Aleksandra Zafirovska - member
- Krste Sivakov - member

Judicial Council Staff

- Elizabeta Vaskova - Secretary General
- Nino Naumov - Analyst
- Valentina Konevska - State Counselor
- Violeta Arnaudovska - State Counselor

Approximately 10 days of this consultancy were conducted in Macedonia one day in Rome (due to delayed flight due to Icelandic volcano) and the balance of five days in the US in preparation work, review of all relevant materials, review of final drafts of code of ethics, amendments to the Law on Court Services and report writing. Two days were charged to travel for a total of 18 days.

Goals of Consultancy

The key institution for promoting, protecting and strengthening independence, objectiveness and the autonomous position of the judicial branch is the Judicial Council of the Republic of Macedonia (Council). According to its mandate, set forth in the Constitution and respective regulations, the Council performs a set of critical activities such as electing, disciplining, dismissing, and performance reviews of judges, quarterly and annual assessment of the courts' work, taking care for the judges' reputations, citizens' trust and confidence in judiciary, etc.

Council members are regularly challenged to be part of a difficult and very responsible decision-making process. Notwithstanding the legal preconditions to become a council member, it is expected that a council member must be bound to the highest ethical principles and norms that will prevent him or her from unprofessional behavior.

There is a need to build a Code of Ethics for the Council that will promote the standards of objectivity and independence in its work. The aim is to prevent biased and unprofessional actions, and to improve the image of this institution and overall enhance trust and confidence in the judiciary. Moreover, by applying the provisions of a Code of Ethics the Council will maintain the highest level of integrity, honesty and responsibility. Additionally, the final goal is development, adoption and finally practicing a code of written ethical rules, values and criteria that will make the council's everyday work and functioning easier and more trustworthy.

The second part of the consultancy focused on this consultant's continuous work with the relatively new institution within the judiciary –the Court Service Council that is, in essence, the independent civil service office of the judiciary. This consultant has been involved from time-to-time with the capacity building of the Court Service Council (CSC) and the development of the Law on Court Services. After working with the law for a period of time the Ministry of Justice, in collaboration with the CSC. has determined that amendments and enhancements to the law is in order. Through a working group, a number of amendments have been proposed. Several of these are in accordance with recommendations made by this consultant after working with the CSC. Part of this consultancy involves, a review of the proposed amendments and commenting thereon.

I. Code of Ethics

A. Methodology and Activities: Code of Ethics for Judicial Council Members

The preliminary off-site work included reviewing a large number of documents, codes and regulations on ethical standards for judges and non-judicial staff from a number of US and European sources. These were compared against each other and best practices were identified. It was anticipated that the president of the Judicial Council would establish a working group consisting of Council members, and top administrative office representatives (Secretary General, Counselors, and Heads of Sectors). It was expected that the entire working group would be in place on the second day of the in-country consultancy and that a document would be prepared in a collaborative manner with the help of the consultant and JRIP staff. The working group was somewhat slow to assemble for a variety of internal reasons emanating from within the Council. Therefore, after several meetings with the deputy president and another member of the Council's working group, it was determined that the consultant would formulate a proposed code and present it to the working group members for consideration. This was accomplished and a final proposal was prepared, with collaboration and input from the Council's working group which was finally assembled. It was presented to the full working group, and suggested changes were incorporated in the final document. The final draft was presented to the entire Judicial Council for its next regular meeting and a working session was set for one week later. This document incorporated the best international standards and practices.

A copy of the original proposal to the Council's working group is attached as well as the final draft developed in collaboration with the working group which was delivered to the full Council for consideration. Also attached is a PowerPoint presentation used by this consultant in the orientation sessions for both the Judicial Council working group as well as the working group for the Council staff and employees (Council Professionals).

B. Methodology and Activities: Code of Ethics for Employees and Staff of the Judicial Council

It was uncertain in the preparation phase whether a Code of Ethics would be prepared for both the Council and staff or whether two separate codes were to be prepared. It was determined, after discussion with the deputy president of the council, that two separate codes should be prepared. As a result, the consultant and members of the JRIP staff met separately with the working group assembled by the general secretary of the Council. This was a very active group and gave clear directions as to what was anticipated and what would work as a Code of Ethics for staff and employees of the Council. Research revealed a number of best practices from the US and Europe. These were incorporated into a code, which was presented to the working group for amendments and enhancements. The working group largely accepted the draft prepared by the consultant and JRIP staff with a few relatively minor changes. Since this was done on the last day of the consultancy, the few modifications were to be made by JRIP staff and submitted to the working group for consideration by the staff and employees of the Council. JRIP staff member Filip Janiceski accomplished this task prior to leaving for another position with the US State Department. A copy of the draft originally delivered for consideration is attached to this report.

II. Law on Court Services: Support Implementation of the Law on Court Service.

The Law on Court Service was adopted on July 25, 2008 and became operational on January 1, 2009. In essence, it strengthens the independence of the judiciary by transitioning court employees from the executive to the judicial branch. It also strives to improve the status of the court employees promoting many innovative principals such as a career merit system, new management position of the court administrator etc.

JRIP actively supported the drafting of the Law, as well as the respective sub-regulations. The law was adopted to build a competent, professional and accountable court administration and workforce. In practice it showed certain impediments and gaps during the application of the law. Earlier this consultant has worked with the adoption of the law and its initial implementation. In addition, this consultant has worked directly with the members of the council set up to administer the law and has held workshops to enhance the commission's capacity and sustainability. In working with this group, as well as court administrators created under the law, it became clear that certain provisions are in need of amendment and/or enhancement.

In a previous report, the consultant has made a series of recommendations some of which have been addressed by the working group established by the Ministry of Justice to work on possible amendments. The consultant is now tasked with assessing and reviewing the efficacy of proposed amendments and enhancements.

Methodology and Activities

Prior to retuning to Macedonia the consultant reviewed the current text of the law and through correspondence with JRIP staff ascertained the application of the law as it is currently being implemented. A review was also made of previous documents and reports related to the law and the Court Services Council, particularly the recommendations set forth in this consultant's report of April 2009. Application and implementation of the law was also discussed with Dimitar Georgievski a representative of the Ministry of Justice and Sonjia Guerevska, General Secretary of the Supreme Court and permanent member of the Court Services Council

Progress has been made subsequent to the recommendations of April 2009. The Council, which is headquartered in the Supreme Court, now has an employee on staff. An office has been established and some furnishings supplied by JRIP. The JRIP staff has also advised that steps are being taken to support Recommendation #3 of the report which calls for enhancement of IT capabilities of the council including video or, at least audio conferencing. While these are small steps they directly support the strengthening of the Council as an institution and enhance its prospects for sustainability.

Following are the comments and assessment of the current proposed amendments to the Law on Court Services. At the outset it should be noted that the general tone and specifics of the proposed amendments are positive and constructive. There are only a few areas, which will be noted below, in which alternative recommendations are set forth. Only the articles for which the consultant has a comment are set forth below. Many of the changes address language or nomenclature and no comment is made unless warranted.

A copy of the law with the proposed amendments in English is annexed to this report.

Article 3: Adding technical support staff to the “court team” is an excellent proposal that will place all truly court service personnel under one judicial branch structural umbrella.

Article 7: The proposed amendments appropriately captures those with enhanced responsibilities under the title of “leading court employees”. It is appropriate also to include the ITC heads, as well. The title of “Independent Court Advisor” is appropriately included as a “Professional Court Advisor”. It is important that those specialists with professional increased responsibilities be recognized as the professionals they are and be identified as court professionals. Article 7 also includes appropriate nomenclature changes needed for clarity.

Article 8: This article contains significant changes, which should be welcomed for a variety of reasons. The Council will increase in size from nine members to eleven. This will make it more representative and is justified by the enormous amount of work, which is required of the council and its individual members. The council is, in essence, an entire civil service department for the judicial branch and its tasks need to be spread among more people.

This article also eliminates judicial participation in the council. Presently, four members come from the ranks of the president judges. This membership is too burdensome to the president judges who have both an administrative and adjudicative responsibilities as court presidents. The CSC function is administrative and clerical and its mandates should lie with professional administrators, thus freeing up judges to judge and, in the case of president judges, to manage their courts.

It has been observed by this consultant that, since the law’s implementation, much of the work of the council has fallen to the court administrator members, particularly the one permanent member, due to the judges’ adjudicative and administrative responsibilities in their own courthouses.

This article, if adopted, will also provide for six permanent members of the Council instead of one presently named. This will add more stability to the council in terms of tenure and “institutional memory”. This combined with the proposed three year rotating terms of the other members will go a long way to provide a professional office with knowledge and expertise in the specialized subject of human resources and staffing levels of the courts.

Article 10-a: This new article would make the council a beneficiary of the court budget. Currently, each court from which a member is designated supports that member’s participation. The Supreme Court supports the one staff member and the office facility. This is not a sustainable financial situation. It is unfair since the expenses of implementing this law are not spread evenly throughout the court system. The Supreme Court is responsible for paying the one employee and presumably will be responsible for other employees to be hired to support the council’s work. The Court Services Council should be given its own budget, or in the alternative, a budget line within the Supreme Court. It should be responsible for preparing a yearly budget and monitoring it throughout the year.

There are examinations to administer, interviews, travel, and a variety of other expenses, which should be itemized and accounted for. Presently, the council’s financial affairs are met through *ad hoc* expenditures

by courts that have a member on the Council. This practice is not within sound budget principles.

Article 12: Recommendation #6 of this consultant's April 2009 report suggested that the law should be clarified to limit the number of applicants for employment to be interviewed. Under the present law, interpretation gave way to the practice of interviewing all who passed the written and practical exams. The proposed section corrects that and limits the required interviews to the top five applicants.

This consultant enthusiastically supports this change. However, limiting the number to five may be too confining and does not take into consideration that not all positions are alike. There may be instances for high or delicate positions where more than five people should be interviewed. In some instances there may be an abundance of very impressive candidates. In other instances, it may be clear that no more than three or four persons should be interviewed, since the applicant pool does not have many strong candidates. There also may be very few applications in some courts or geographical areas. It is recommended that some flexibility be provided for, depending on the circumstances of the individual position and pool of candidates. Perhaps language should be included such as: "the number interviewed shall be no less than three (or 4 or 5)", leaving it to the council to decide the actual number, depending on the position and pool of candidates for it. (Eliminating the words "at the most"). The Council should decide the number to be interviewed on a case-by-case basis depending on the circumstances.

Article 12-A: This new article gives two ways that an employee shall be employed --a public announcement or transfer from one court to another. **Article 14** then goes on to direct how the process will be published. A proposed addition to this article suggests that the notice will be published on the web site of the court, and on the bulletin board. Presumably, this means the web site of the court in which the vacancy has occurred and its bulletin board, in addition to the standard publication in at least two newspapers. When the position is to be open to the general public the publication should be expanded and be placed on a special section of the Supreme Court web site where all such vacancies should be listed. In addition the notice should be sent to other public and private institutions that provide bulletin boards for that purpose such as bar association(s) universities and faculties across the country. This is an excellent opportunity for "outreach", especially to minority candidates.

Article 15: This article provides for a three-member committee to be established by the president judge. This article also eliminates the requirement that one member of the committee be a council member. This is appropriate. However, it is too broad and confining and gives up too much control. The council should retain control over the appointment of the third member. There will be occasions where the council may decide that it is best that a council member sit on the committee. There may be rare occasions, necessitated by some "circumstance" at a court that require more direct Council scrutiny. However, in the usual situation the council should name the third member of the committee. If not a council member, it should be a leader or person of equal or higher rank to the position being filled and should be appointed from *another* court. This member will be the representative of the Court Service Council and be its "eyes and ears" throughout the process. This will better guarantee the integrity of the process.

Article 16: The number of persons to be interviewed should be left more flexible. The words "at most" should be eliminated and some agreed upon parameter should be used such as "no less than three nor more than eight", as an example. While five can be the norm, the council shouldn't confine itself to a set number but leave it flexible depending on the position and court.

Article 18: The proposed amendment provides 15 days for the CSC to decide an appeal changed from eight days in the current law. The Court Service Council should decide an appeal from the decision of a president judge before 15 days, in the opinion of this consultant. It is important that vacancies be filled as soon as possible to support court operations. A protocol should be set up to accomplish the review expeditiously including through electronic and telephonic communications between the council's

members.

Article 23: This proposed article might provide an unintended result in some cases. If there is to be a promotion there should be an internal announcement. But, “internal should mean system-wide not within one court. The announcement should go to all courts and courthouses in the system. Internal should mean “within the judicial system”. If no candidate or candidates apply from within the courts, then there should be a public announcement.

A promotional opportunity that exists in a court should be available to qualified candidates from any court. It is common to favor one from the court with the vacancy, but that person may not always be the best candidate or, in fact, may be the worst.

There may be one or more interested candidates from within the court in which the vacancy occurs, but that person or persons may be unsuited –not a person who can do a good job. Having a larger pool to pick from will assure an excellent choice and not force the court to take someone marginal or worse just because they come from that court.

Article 27: These provisions are a matter of local preference and public policy provided that they are consistent with labor laws and other provisions of Macedonian law. However, limiting vacation time to two blocks of time may be too constraining to the employee and to the court system.

It is reasonable to require that one block of the vacation be taken during the summer months when the courts slow down to emergency or other specified matters. However, the balance of vacation should be at the discretion of the court administrator, after a request from the employee. This may be very advantageous to the court system since it allows the court administrator to consider court “operational needs” in assessing the employee’s request. Spreading out vacations may help keep the operations running more smoothly and reduce overtime and/or temporary services. Restricting vacation to two blocks of time may not be the best for the courts or the employee who may wish to take several “mini” vacations. This should be permitted, at the discretion of the court administrator, taking into consideration the courts operational needs.

Other laws on labor relations may apply, but more flexibility serves court operations better than a strict “two-part” requirement. The judiciary should not be bound by the two-block vacation because of the uniqueness of its operations. The courts must serve all who come and cannot delay justice as the executive branch may delay the fixing of a road or building of a bridge. If it is truly independent, and its employees work for the judicial branch, it should set its own rules on this and not be bound by the rules of the executive or legislative branch.

Article 28: Getting two days paid leave for blood donation is, in this consultant’s opinion, overly generous and unnecessary. At most an employee should receive 2 to 4 hours of paid leave for this purpose. It is a noble thing to donate blood but is routine and for most people does not involve any after effects. If it does, they should not donate. The judiciary should explore having blood donation banks travel from time to time to courthouses where employees can donate on site.

Article 44: This whole section was deleted. Unless you want to re-number the entire law, I suggest that you leave the title --**Article 44**, and thereafter insert the word “Repealed”.

Articles 45 and 45-a: Very good incentives and merit awards.

Article 55: The disciplined employee may be at a very low level with minimal education. Two questions come to mind: Do you want someone with an equally low level of education and maybe experience given

such an important responsibility? Suppose there is no one else in the court with that title to serve? Should you provide that the person to serve on the committee be taken from another court with the president judge's permission? It is always good to have someone from another court serve for such matters and gives the proceeding more credibility. That person should be an experienced leader or professional, however.

Article 65: The president judge should only be responsible for evaluation of the court administrator and the top-ranking officer of the court police in his or her court. The ranking officer of the court police should then conduct the evaluation of those police officers that serve under his or her command. It is too onerous for the president judge to conduct the evaluation of all court police. The president judge should be free to conduct his or her adjudicative and administrative duties which include, among other things, being sure that cases are resolved and that there is no backlog.

Section X: It is good to see a strong effort to organize the court police. Professionals should be consulted to help with the structure including an audit and oversight protocol. Training should be extensive and geared toward the specialty of security *in the courts* as well as special training for judicial protection, especially in Skopje I.

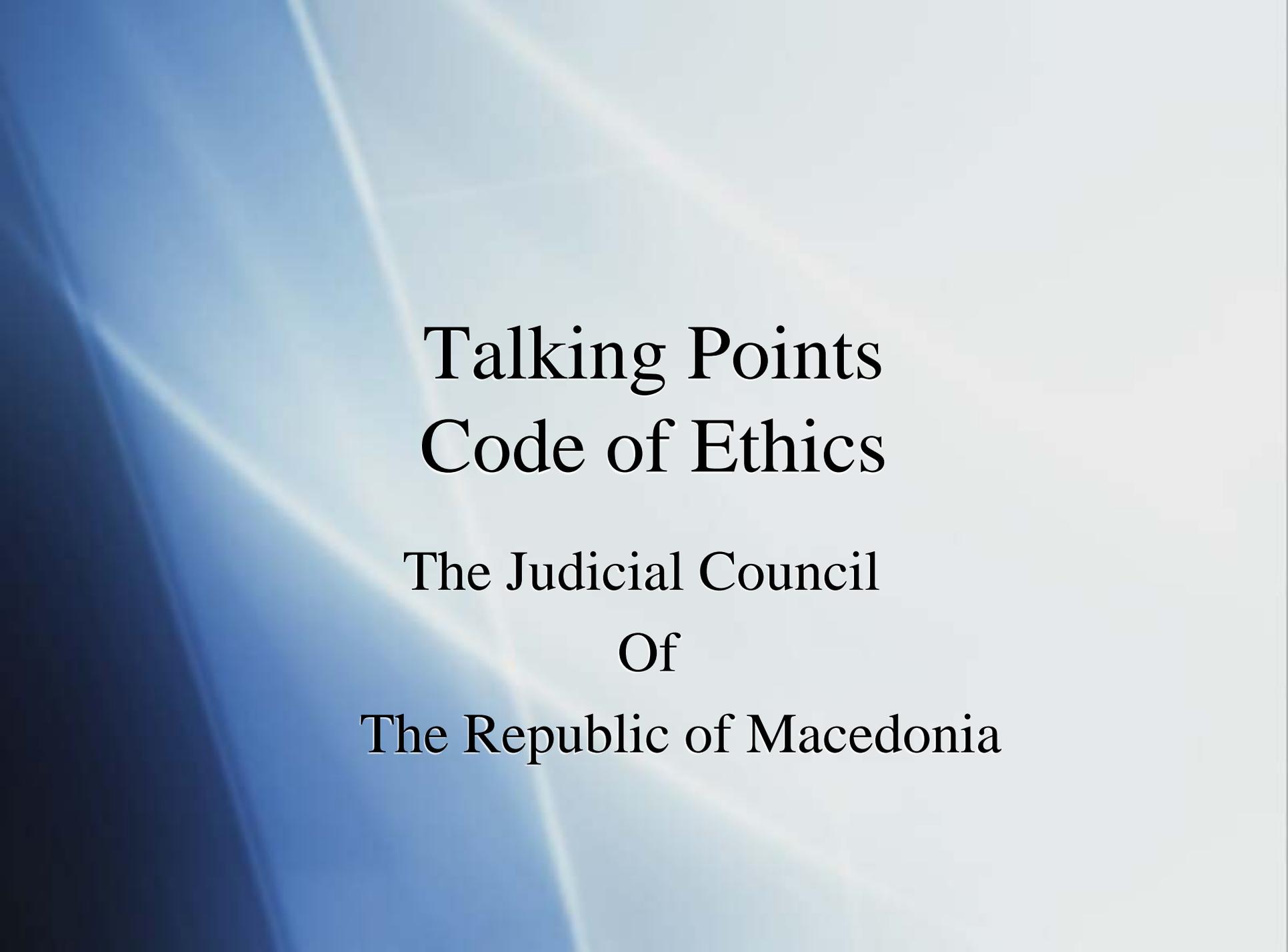
The titles of the deleted sections should remain in the text with the words "repealed" after them so as not to distort the numbering system and to assure readers that there was not something left out of their copy.

Respectfully submitted

Dated: May 11, 2010

A handwritten signature in black ink on a light blue background. The signature is cursive and reads "J. Traficanti, Jr.".

Joseph J. Traficanti, Jr
Consultant



Talking Points Code of Ethics

The Judicial Council
Of
The Republic of Macedonia

Overarching Provisions of a Code

- Preamble (Setting the tone)
- Introduction (Why it is necessary)
- Faithful Performance of Duties
- Abuse of Position Prohibited
- Conflicts of Interest
- Confidentiality
- Prohibited Activities

Questions for planning Code of Ethics

- What should be the “Scope” of the code?
- Who should it cover?
 - JC Members only; ex-officio members?
 - Employees of JC
 - Ancillary agencies
 - CBC members and/or staff
 - Court Services Council members and/or staff
 - Others _____
- If more than JC members:
 - One document or two (members, agency, staff)

Issues of Policy to be Decided

- Prohibition of special privileges for self and others
 - Fees or compensation beyond official salary & benefits
- Gifts --prohibitions and exceptions
 - Family members
 - Friends
 - People “likely” to have business before JC
- Confidentiality
 - Matters not yet public
 - Work product of JC, CBC, AO, others
 - Disclosures by former members
- Employees dispensing advice (legal or other)

Issues of Policy to be Decided

- Conflicts of Interest
 - Disclosure of possible conflicts
 - Appearances of conflict
 - Business, social or family relationships
- Prohibited outside activities
 - Employment
 - Business interests
- Prohibited Political Activity (see Sec 52 Paragraph 6 Law on Courts for judges)
- Financial Disclosure Statements

Issues of Policy to be Decided

- Fundraising for:
 - Charities or other non-profits
 - Projects to support enhancements of the law and the rule of law
- Recusals (Self-Disqualification)
 - When required
 - What events or
 - Degree of kinship or knowledge of a person (social, business, professional)
 - Who should be the final arbiter

Issues of Policy to be Decided

- Ex Parted Communication
 - Candidates or outside people
 - Discussion between members and staff
- Seeking outside opinions
 - Permitted or Prohibited?
 - If permitted, under what protocol
- Overseeing staff conduct
 - Staff not to do what members may not
- Making public comment on pending matters
 - Explaining decisions already made

Issues of Policy to be Decided

- How should JC bind itself to the code?
 - Ancillary Agencies and staff
- Mechanism and protocol for enforcement
 - Who can complain and to whom
 - What process
 - Who decides
 - What are the penalties.

Issues of Policy to be Decided

- Duties of the Members and Staff to maintain records
- Regularity of attending meetings
 - Maximum number of absences?
 - May member vote if not in attendance when matter discussed?



USAID
FROM THE AMERICAN PEOPLE

**JUDICIAL REFORM
IMPLEMENTATION PROJECT**

CODE OF ETHICS FOR THE JUDICIAL COUNCIL OF REPUBLIC OF MACEDONIA

FIRST DRAFT

(This is working draft of text that should be improved in respect of a grammar, language, still and other corrections during finalization),

April 24th, 2010

The views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

Table of Contents:

Preamble 3

1. Scope 4

2. Terminology 4

3. Performing Duties of a Judicial Council Member impartially and diligently 5

3.1 Responsibilities 5

4. Disqualifications 6

5. Personal Integrity 7

6. Professionalism 7

7. Confidentiality 8

8. Enforcement and Penalties 9

8.1. Judicial Council’s Code of Ethics Violation and Enforcement Protocol 9

8.2. Protocol/Disciplinary procedure 10

8.3. Penalties/Disciplinary measures 11

Preamble

The Judicial Council of the Republic of Macedonia is an autonomous and independent body in the judiciary. The Council provides and guaranties the autonomy and independence of the judiciary in accordance with the constitution and laws of the Republic of Macedonia including the Law on the Judicial Council and The Book of Rules for the Operation of the Judicial Council.

The foundation of society rests, in part, on the ability of its citizens to wisely judge the value of the judicial branch and to acknowledge the *integrity* of the judiciary as a co-equal branch. The Council is one of the major defenders of an independent judiciary and, as such, has mandates, which are electoral, adjudicative and administrative in nature. These functions include the competencies to appoint and dismiss judges, appoint and dismiss president judges of courts, determining termination of the judicial function, appointment of jurors, monitoring and evaluation of the work of judges, deciding disciplinary responsibility of judges, monitoring and evaluating the work of the judges; deciding on disciplinary responsibility of the judges; determining the termination of a judicial function due to permanent inability to work as a judge; deciding on taking away the immunity of a judge; deciding on request for approval of custody to a judge; proposing two judges of the Constitutional Court of the Republic of Macedonia from the pool of judges; deciding on temporary removal of a judge in terms of his/her performing of a judicial function; determining the number of needed judicial posts per courts; analyzing and evaluating the quarterly and annual reports for the performance of the courts; attending to the reputation of the judges and the confidence of the citizens towards the judiciary; proceeding upon filings and complaints from the citizens and legal entities regarding the work of the judges and courts; submitting a report about the work; adopting a book of rules and other general acts that regulate the issues within its competence and performing other issues prescribed by law.

Membership on the Judicial Council is a public trust justified by the confidence that the judges, court and administrative staff of the courts and the citizenry has in the integrity of the Council and of the judicial branch in general. A member of the Council must be faithful to that trust, and therefore shall observe high standards of conduct so that the integrity and independence of the judicial branch may be preserved. The Council and each individual member must be and be perceived as “above reproach”. Council members shall carry out all duties assigned by law and shall put loyalty to the principles embodied in this Code above loyalty to persons or parties.

A member of the Judicial Council shall uphold the Constitution, laws and legal regulations of the Republic of Macedonia and never be a party to their evasion. Each member, by taking the oath of office prescribed in Article 28 of the Law on the Judicial Council agrees also to abide by the

standards set out in this Code and shall endeavor to expose violations of this Code wherever they may appear to exist.

These rules are rules of reason and each of the sections of this code should be read together as a whole, and each provision should be construed in context and consistent with each other provision. They are to be applied in conformance with constitutional requirements, laws and other rules and by-laws that may exist and to be applied in the context of all relevant circumstances. The code is designed to give guidance to Judicial Council members and to provide a structure for regulating conduct that will demonstrate the high level of responsibility and ethics expected from such an important position in the judiciary. The rules contained in this code are intended to state basic standards that should govern the conduct of Council members and to assist them in establishing and maintaining high standards of professional conduct.

1. Scope

This Code of Ethics is intended to bind the Members of the Judicial Council from the time of taking the oath of office for the position. It should be construed as self-imposed discipline on the members and is promulgated pursuant to Article 31 of the Law on the Judicial Council of the Republic of Macedonia as well as the inherent authority of an autonomous and independent body of the judiciary. This Code is a personal and professional pledge of council members to the principals set forth in this Code. This Code will be binding on incumbent members who are in office on the day of its effective date and publication in the Official Gazette of the Republic of Macedonia.

2. Terminology

“Member of a members family” denotes a spouse, child, grandchild, parent, grandparent or other relative or person with whom the member maintains a close familial relationship whether related by blood marriage or not.

“Nonpublic information” denotes information that, by law, is not available to the public. Nonpublic information may include, but is not limited to, information that is sealed by law or court order such as psychiatric reports.

“Political organization” denotes a political party, political action committee or other group, the principal purpose of which is to further the election or appointment of candidates to office

“Impartiality” denotes absences of bias or prejudice in favor of, or against, particular candidates, judges, staff or any person having business before or with the Judicial Council.

“Independent Judiciary” is a judiciary, which is free of outside influences or control.

“Integrity” denotes fairness, honesty, uprightness and soundness of character and adherence to the rules set forth in this Code

“Impending Proceeding” is one that is reasonably foreseeable but has not yet been commenced

“Member” A member of the Judicial Council duly elected and having fulfilled all of the requirements for membership pursuant to Section 28 of the Law on the Judicial Council of the Republic of Macedonia

“Pending Proceeding” is one that has begun but not yet reached its final disposition

3. Performing Duties of a Judicial Council Member impartially and diligently

A member shall perform his or her duties impartially and diligently. The activities of a member of the Judicial Council shall take precedence over all other activities. A member’s Council duties include all duties prescribed by law and the Constitution of the Republic of Macedonia. In the performance of these duties the following standards shall apply.

3.1 Responsibilities

A member shall:

- a) Be faithful to the law and maintain professional competence. Partisan, political or personal interests, public clamor or fear of criticism may not sway a member in his or her work or decisions;
- b) Dispose of all Council matters required by law promptly, efficiently and fairly;
- c) Be patient, dignified and courteous to all persons having business before or with the council including staff members;
- d) Perform the duties required as a Council member without bias or prejudice against or in favor of any person. A member may not, in performance of his or her duties, by word or conduct manifest bias or prejudice, including but not limited to bias or prejudice based on age, race, ethnicity, creed, national origin or socioeconomic status and shall require staff and Council officials to refrain from such conduct;
- e) Accord to every person who has a legal right and interest in a proceeding before the Council the right to be heard according to law and the protocol of the Judicial Council.

A member shall not:

- a) Initiate, permit or consider ex parte communications in proceeding before the council, which involve proceedings for the discipline of judges or any other adversary proceedings excluding strictly administrative or scheduling matters that do not affect the substantial rights of a person with business before the Council. Any information received by a member, relevant to the disposition of a matter before the council as a whole, shall be shared with all members eligible to take part in the proceeding. This should not be construed to prohibit members from discussing such matters individually with other individual members.
- b) Make any public comment about any pending or impending matter or proceeding before the council, which is by law, or rule private or confidential in nature (such as judicial disciplinary proceedings). The Council and its individual members shall require a similar abstention on the part of Council staff and personnel. This does not prevent the Council, its staff or members from making public comment in their official capacity on matters appropriate for public comment and information.
- c) Make pledges or promises of conduct or actions in office that are inconsistent with the impartial performance of the adjudicative duties of the Council (quid pro quo).
- d) Make premature commitments as to what the outcome of an individual advocacy proceeding, election of a judge or president judge or discipline of a judge may be. Such decisions to be made only after full consideration and deliberation of the Council as a whole according to the rules and protocol of the Council.
- e) Disclose or use for personal gain any non-public information acquired through his or her membership in the Judicial Council

4. Disqualifications

A Judicial Council Member:

4.1 Shall disqualify him or herself in any proceeding before the council in which the member's impartiality might reasonably be questioned, including but not limited to instances where:

- a) The member has a personal bias or prejudice concerning a person having an interest in the proceeding or business before the Council;
- b) The member has personal and first-hand knowledge of the disputed evidentiary facts concerning a matter in controversy through previous dealings with participant(s);
- c) The member or the member's family has an interest that could be substantially affected by the proceeding;

d) A person who is the subject of a council proceeding or council business is a member of the member's family or a person with whom the judge maintains a close familial relationship

5. Personal Integrity

A Council member shall avoid impropriety and the appearance of impropriety in all activities.

- a) A member shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.
- b) Family, social, political or other relationships shall not influence the members conduct or judgment
- c) A member shall not allow the prestige of office as a member of the Judicial Council of the Republic of Macedonia to advance the private interests of the member or others; nor shall he or she convey or permit others to convey the impression that they are in a special position to influence the member in his or her activities as a member of the Council.
- d) A member shall not hold membership in any organization that practices discrimination.

6. Professionalism

- a) A member of the Judicial Council of the Republic of Macedonia shall conduct all activities, professional and personal so as not to cast reasonable doubt on the member's impartiality as a member of the Judicial Council or engage in any activity which would detract from the dignity of his or her office.
- b) A member of the Judicial Council may not engage in any activity, which will detract from the dignity of his or her position as a member of the Council or interfere with the proper performance of Council business.
- c) A member shall not engage in any business or professional venture other than as a member of the Judicial Council, nor engage in financial and business dealings that may reasonably be perceived to exploit the member's position on the Council
- d) A member of the Judicial Council shall not accept, and shall not urge members of the member's family residing in the judge's household to accepting a gift, favor or loan from anyone except a of a token amount provided that such token gift is not from a person who has pending or impending business before the Council. However, a regular loan in the ordinary course of business from a lending institution or relative or close friend not

having business before the Council is permitted provided the terms are commensurate with such loans generally available to the general public.

- e) A member may accept a gift from a relative or friend for a special occasion such as a wedding, anniversary or birthday provided that the gift is the usual type of gift for the occasion.
- f) Members of the Council shall file annual financial reports as required by the laws of the Republic of Macedonia for public servants.
- g) A member may not belong to a political party, and may not take part in political activity, campaigning or fundraising for partisan political purposes. The above provision does not apply to the Minister of justice as an ex-officio member of the Council.
- h) Also precluded is:
 - Attending political events or gatherings,
 - Contributing money to parties or candidates,
 - Soliciting funds for political organizations or events,
 - Publicly endorsing or opposing political parties or candidates (list names)
 - Making speeches on behalf of political parties, candidates or issues
- i) Nothing in this section shall be construed as to prohibit a member's from exercising his or her right to vote in a regular or special election.
- j) Each member shall be responsible to engage in continuing legal education on a periodic and regular basis by reading journals, reviews and updates and attending available seminars and workshops and follow new developments in areas of court management and administration as well as ethics. The Judicial Council shall provide the opportunities for professional development.

7. Confidentiality

Members of the Council shall not disclose to any source outside of the Council members and staff any information, which is non-public information as described in this Code. Confidential information shall also include the work product of members of the council and/or staff such as the results of investigations or reviews. The Council is responsible to assure that staff members also respect this rule of confidentiality.

“Confidential” or “Nonpublic information” denotes information that, by law, is not available to the public. Nonpublic information may include, but is not limited to, information that is sealed by law or court order such as psychiatric reports.

8. Enforcement and Penalties

8.1. Judicial Council's Code of Ethics Violation and Enforcement Protocol

The Judicial Council of the Republic of Macedonia shall internally enforce the rules set forth in this Code of Ethics to preserve the independence of the judiciary. It is necessary that enforcement take place transparently and expeditiously in the event of a breach. Members are responsible to hold themselves above reproach.

Rules of ethics are central to accountability by those holding positions of public trust, and Judicial Council members certainly are. As the institution charged with enforcing standards of conduct in order to maintain integrity and independence of the judiciary, the Judicial Council recognizes the importance of observing high standards of ethical conduct in the performance of its responsibilities. The Code of Ethics set forth and describes ethical standards expected of Judicial Council members who are bound by the provisions of this Code.

In order to avoid a situation when the new Judicial Council's Code of Ethics remains unknown or unenforceable, the Judicial Council will undertake several concrete steps.

Firstly, it will spearhead the development and publishing of an article-by-article explanatory commentary to the Code, which provides practical guidelines to Judicial Council members on how they should act in situations involving dilemmas of an ethical nature. Every Council member will receive a copy of the Code of Ethics along with the commentaries and guidelines.

Secondly, in accordance with member's wishes, the Judicial Council will declare education on judicial ethics issues a priority for the continuous training program as of 2010 and onward.. The sometimes-controversial case studies discussed at these training sessions have ignited a keen interest even among judges who were initially skeptical about the need to have or abide by judicial ethics standards.

The protocol set forth below will be used in the event that a complaint is received regarding an alleged violation of this Code. The code provides a range of discipline, which may be recommended to the full council. The specific penalty imposed will depend on the severity of the offense as determined by the Council after recommendation by a select ad hoc committee assigned to investigate the complaint, determine its merit and make a recommendation to the full Council excluding the member complained against.

8.2. Protocol/Disciplinary procedure

a) *Institution of a Disciplinary Proceeding*

Upon receipt of a complaint alleging a violation of this Code, the president of the Judicial Council will form a select *ad hoc* disciplinary committee consisting of a minimum of three and a maximum of five members of the council chosen from the roster of council members excluding the member against whom the complaint is filed. The number of members to be assigned will be at the president's discretion depending on the severity of the offense charged.

b) *Complaints of a Violation of the Code*

Anyone with personal knowledge of a violation of this Code may file a complaint with the Council. The complaint must be in writing. It must identify the member alleged to have violated the Code and include a recitation of facts identifying the alleged violation and when it is alleged to have occurred. Another Council member who is required to file such a complaint upon obtaining knowledge of an alleged violation may initiate the complaint.

c) *Investigation and Hearing*

The *ad hoc* committee appointed by the president is empowered to investigate the facts surrounding the complaint. The committee may dismiss the complaint summarily if it is found to be without merit on its face. If a complaint contains allegations that, if true, would constitute a violation of this Code, the committee shall cause a copy to be delivered to the member charged who will have an opportunity to respond in writing within five days. If factual questions remain, the committee shall hold a hearing at which both the complainant, the respondent and other witnesses called by either party or the committee may be heard.

c) *Rights of the Council's member*

Disciplinary proceedings should be "judicial" in nature. In all cases, safeguards should be envisaged for the accused member, who has the right to defend him or herself. The respondent member will have the right to cross-examine any witnesses, have counsel present and have the right to examine all evidence.

Distinction should be drawn between an investigational phase which is administrative in nature, and should not envisage the right for the accused member to be assisted by defense counsel, but during the "pre trial" and "trial" phase there must be an opportunity for the accused to defend him or herself, to appear before the designated body and be heard.

d) *Publicity of the Procedure*

The "trial" portion of the proceedings shall be open to the public

e) *Determination and Recommended Action*

The *ad hoc* committee shall make a determination as to whether a violation of the Code had occurred and what the penalty should be. This determination shall be in

writing and advisory only. It shall be transmitted to the president of the Council who shall present the recommended findings to the full Council excluding the member who is the subject of the complaint. The full Council shall vote to accept or reject the committee's recommendation. If it is rejected the complaint is considered dismissed. If accepted, the General Secretary will see that the penalty is carried out. It will take a majority vote of the full Council to ratify a finding that a violation has occurred and to accept the sanction. The full council may dismiss the complaint, accept the recommendation or amend the sanction recommended and substitute it for another sanction permitted by this article.

e) Factors in Determining Level of Discipline-Aggravating Factors and/or Sanctions

Comparing the Judicial Counsel member's contribution to harm from misconduct.

Comparing the current case with discipline in other cases.

Likelihood of future misconduct.

Impact of misconduct on the judicial branch/system.

Number of wrongful acts.

Failure to appreciate the inappropriateness of conduct, lack of recognition of failings.

History of past discipline.

Failure to heed warnings from others about conduct.

Dishonesty generally and in proceedings.

Attempts to evade responsibility: making excuses, minimizing faults etc.

Impeding investigation and failure to cooperate with the disciplinary body.

Delay and indifference to commission inquiry.

e) Factors in determining level of discipline-mitigating factors

Positive attitude.

Acknowledging misconduct and taking actions to correct problems.

Particular efforts to improve and change.

Responsiveness during the procedure.

Good character and reputation.

8.3. Penalties/Disciplinary measures

- a) ¹Private Advisory/Cautious Letter to the Member which may be issued with a dismissal prior to hearing with no finding of a violation
- b) ²Private Admonition may be issued after finding of violation only
- c) Pecuniary sanction fine not to exceed 500 Euros

¹ Advisory/Cautious letter (No violation) is a non-disciplinary letter (prepared by the Disciplinary body) that advises the Council member regarding future conduct.

² To be used when a is a nonpublic sanction imposed by the disciplinary body for misconduct of an isolated and non-serious nature.

- d) ³Public Censure and Reprimand
- e) Letter of Indictment to the appointing authority recommending removal from the council

This code shall take effect 5 days after it is published in the Official Gazette of the Republic of Macedonia

³ a public sanction imposed by the disciplinary body based on the finding that the JC's member has committed serious misconduct.



USAID
FROM THE AMERICAN PEOPLE

**JUDICIAL REFORM
IMPLEMENTATION PROJECT**

**CODE OF ETHICS FOR THE MEMBERS OF THE JUDICIAL COUNCIL
OF REPUBLIC OF MACEDONIA**

SECOND DRAFT

April 28th, 2010

The views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

Table of Contents:

Preamble**Error! Bookmark not defined.**

Article 1 4

Goal..... 4

Article 2 5

Principle of impartiality, dilligence and objectiveness 5

Article 3 6

Principle of Independence..... 6

Article 4 7

Principle of Honesty (and Personal Integrity) 7

Article 5 8

Principle of Professionalism 8

Article 6 9

Principle of Confidentiality..... 9

Article 7 10

Responsibilities 10

Introduction

The Judicial Council of the Republic of Macedonia (in the further text: the Council) is an autonomous and independent body in the judiciary. The Council provides and guaranties the autonomy and independence of the judicial branch of government, by performing its functions in accordance with the constitution and laws of the Republic of Macedonia including the Law on the Judicial Council and The Book of Rules for the Operation of the Judicial Council.

The foundation of society rests, in part, on the ability of its citizens to wisely assess the significance and integrity of the judiciary as a co-equal branch. The Council is one of the major defenders of the independent in the judiciary and, as such, has a wide range of competences: appointing and dismissal of judges, appointing and dismissing president judges of courts, determining termination of the judicial function, appointment of jurors, monitoring and evaluation of the work of judges, deciding disciplinary responsibility of judges, monitoring and evaluate the work of the judges; deciding on disciplinary responsibility of the judges; determining the termination of a judicial function due to permanent inability to work as a judge; deciding on taking away the immunity of a judge; deciding on request for approval of custody to a judge; proposing two judges of the Constitutional Court of the Republic of Macedonia from the pool of judges; deciding on temporary removal of a judge in terms of his/her performing of a judicial function; determining the number of needed judicial posts per courts; analyzing and evaluate the quarterly and annual reports for the performance of the courts; attending to the reputation of the judges and the confidence of the citizens towards the judiciary; proceeding upon filings and complaints from the citizens and legal entities regarding the work of the judges and courts; submitting a report about the work; adopting a book of rules and other general acts that regulate the issues within its competence and performing other issues prescribed by law.

Membership on the Judicial Council is a public trust, based on trust in the integrity in the Council and the judicial branch in general, by the judges, court staff as well as the electorate. Each member of the Council must be faithful to that trust, and therefore shall observe high standards of conduct so that the integrity and independence of the judicial branch may be preserved. It is needed that the Council as a whole and each individual member to manifest high moral standards, as well as there must be a perception that they adhere to these standards. Council members shall carry out all duties assigned by law and shall put loyalty to the principles embodied in this Code above loyalty to persons or parties.

A member of the Judicial Council shall protect the Constitution, laws and legal regulations of the Republic of Macedonia and never be a party to their evasion. Each member, by taking the oath of office prescribed in Article 28 of the Law on the Judicial Council of Republic of Macedonia agrees also to abide by the standards set out in this Code and shall endeavor to expose violations of this Code wherever they may appear to exist.

These are clear principles that should be read together as a whole, and each provision should be construed in context and consistent with each other provision. They are to be applied in conformance with constitutional requirements, laws and other rules and by-laws that are in force and to be applied in the context of all relevant circumstances.

Article 1

Goal of the Code of Ethics

This Code of Ethics is intended to bind the Members of the Judicial Council of Republic of Macedonia in order to comply with the principles determined below, from the time of taking the oath of office for the position and undertaking the duty according to article 28 of the law on Judicial Council of the Republic of Macedonia. The Code of Ethics should be construed as self-imposed discipline on the members. The Code is in accordance with Article 31 of the Law on the Judicial Council of the Republic of Macedonia and is promulgated pursuant to as well as the inherent authority of an autonomous and independent body of the judiciary. This Code is a personal and professional pledge of council members to the principals set forth in this Code.

The goal of this code is to give guidance to Judicial Council members and to provide a structure for regulating conduct that will demonstrate the high level of responsibility and ethics expected from such an important position in the judiciary. The principles contained in this code are intended to state basic standards that should govern the conduct of Council members and to assist them in establishing and maintaining high standards of professional conduct.

This Code refers to all current and future members of the Judicial Council of the Republic of Macedonia, regardless of the fact whether they are elected from the pool of judges, by the Assembly of the Republic of Macedonia upon a proposal given by the President of the Republic of Macedonia, or are appointed to be members of the Council ex-officio, bearing in mind the equality of the rights and obligations of Council members, according to Article 35 from the Law on the Judicial Council of the Republic of Macedonia.

Article 2

Principle of impartiality, diligence and objectiveness

Impartiality is necessary for proper performance of the function member of the Judicial Council of the republic of Macedonia. Impartiality does not apply when decisions are made, but in the very decision making process.

Application

A Council member shall perform his or her duties and responsibilities without favoritism, partiality or prejudice, or other influences that could jeopardize his/her objectiveness.

A Council member shall perform his or her duties in accordance with the determined competences without inclination against or in favor of any party or person, but on the contrary, he/she shall treat all involved parties equally.

During a procedure for determining responsibility, the Council member must not purposely give comments which could be expected to have impact on the final result of the procedure or jeopardize the obvious fairness of the process.

A Council member shall ensure that his/her conduct in and out of the Council maintains and strengthens public trust in the impartiality of the Council Members, the Judicial Council of the Republic of Macedonia as an institution and the entire judiciary.

Diligence is one of the major prerogatives for proper performance of the function of Member of the Judicial Council of the Republic of Macedonia.

Application

It is expected at all times from a Council member to perform his/her work diligently, efficiently and effectively, and in the best way according to his/her own expertise, knowledge and abilities.

A Council Member must not behave in a way which cannot be related to diligent performance of the obligations and duties.

The obligations of the Council Member include all the obligations prescribed by law and the Constitution of the Republic of Macedonia.

Objectiveness is the pursuit of the Council member to perform his/her duty in a way which would provide objective reasoning, by applying the law on the basis of a free evaluation of evidence.

Application

A Council member, while participating in the work and decision making of the Council, or participating in the working bodies of the Council in which he/she is elected, or while monitoring the performance of a judge or president of a court, as well as while undertaking all other actions and conducting proceeding in accordance with the law, shall assess the files, evidence objectively and free from any influences that could endanger or make his/her objectiveness disputable.

A Council member shall respect the right of every person, which has a legal ground and interest in a proceeding before the Council, to be heard in accordance with the law and the protocol of the Judicial Council of the Republic of Macedonia.

Article 3

Principle of Independence

A Council member, while performing his/her function in accordance with the Constitution and the laws ensures and guarantees the independence and autonomy of the Judiciary. Because of that, the Council member should permanently support the judicial independence, but he/she shall also set an example for preserving the judicial independence.

Application

A Council member performs his/her function independently, based on his/her own conviction and assessment of facts in accordance with and conscientious understanding of the law, without any external influences and pressures, threats or interference in the work, directly or indirectly, from any party or because of any reason.

A Council member shall reject any attempt for influence or political pressures on his/her decision by the other branches of government.

While performing his/her function, the Council member will have his/her own judgment that will be independent from the other Council members, in regards to the decisions that he/she should make independently.

A Council Member shall support and instigate protective mechanisms for fulfillment of the determined legal competences in the function of maintaining and strengthening the institutional and operational independence of the Judicial Council of the Republic of Macedonia.

A Council member shall manifest and promote highest standards of conduct in order to strengthen public trust which poses the basis of judicial independence.

Article 4

Principle of Honesty (and Personal Integrity)

Honesty is essentially important for righteous and dignified performance of the function member of the Judicial Council of the Republic of Macedonia.

Application

In the eyes of a reasonable, fair and informed person, the conduct of the Council member should be impeccable.

The conduct and bearing of a Council member, in the professional, as well as in private life, shall reconfirm the trust of the citizens in the honesty of the Judicial Council of the Republic of Macedonia.

In addition to the personal adhering to the principles of this Code, a Council member shall encourage and support the other members to abide to the principles in this code.

While performing his/her function, a Council member shall avoid impropriety and anything that could seem improper or gives the impression for impropriety as a Council Member.

Due to his/her exposure to permanent critical observation by the Public, a Council member shall accept personal limitations that might be difficult for the ordinary citizen, and will do that freely and voluntarily.

A Council member shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

Family, social, political or other relationships shall not influence the Council members' conduct or judgment (reasoning).

A Council member shall not allow the prestige of office as a member of the Judicial Council of the Republic of Macedonia to advance the private interests of the member or others; nor shall he or she convey or permit others to convey the impression that they are in a special position to influence the member in his or her activities as a member of the Council.

A member shall not hold membership in any organization that practices discrimination based on gender, race, skin color, national and social origin, political and religious affiliation, property and social status, gender orientation or other personal attribute or circumstance.

Article 5

Principle of Professionalism

The Council member performs his function professionally and conscientiously, promptly, efficiently and fairly.

Application

A member of the Judicial Council of the Republic of Macedonia shall conduct all activities, professional and personal so as not to cast reasonable doubt on the member's impartiality as a member of the Judicial Council or engage in any activity which would detract from the dignity of his or her office.

A Council member shall respect the law and maintain professionalism in the work. Affiliation, political or personal interests, public rumors or fear of criticism may not prevent him/her from during his work or decision making.

A member of the Judicial Council may not engage in any activity, which will detract from the dignity of his or her position as a member of the Council or interfere with the proper performance of Council business.

A Council member shall not engage in any business or professional venture other than as a member of the Judicial Council, nor engage in financial and business dealings that may reasonably be perceived as exploitation of the member's position on the Council

The Council member, while performing his function must not accept any gifts or use other benefits and facilitating factors in the context of performance of his/her function.

A member of the Judicial Council shall not accept, and shall not urge members of the member's family residing in the judge's household to request or accept any gifts, favors or loans from anyone in relation to something that has been done, should be done, or is not done by the Council member in regards to the performance of his/her function.

Members of the Council shall file financial reports and pay taxes in accordance with the laws of the Republic of Macedonia.

A member may not be a member of a political party, and may not perform or take part in party – related or political activity, party or political organization and action within the Council, campaigning or fundraising for partisan political purposes.

Nothing in this section shall be construed as to prohibit a member's from exercising his or her right to vote in regular or special elections.

Each member shall be responsible to engage in strengthening and maintaining of his/her own knowledge, skills and personal qualities necessary for proper performance of the function through periodic and regular reading of scientific journals, reviews and updates and attending available seminars and workshops and follow new developments in areas of court management

and administration as well as ethics. The Judicial Council shall provide the opportunities for professional development.

A Council member shall be patient, dignified and courteous to all persons having business before or with the council including staff members;

Article 6

Principle of Confidentiality

Member of the Council shall not disclose to any source outside of the circle of Council members and staff any non-public information. Confidential information shall also include the work product of members of the council and/or staff such as the results of a preliminary procedure for determining of responsibility, or from monitoring and evaluation of the judges' performance.

Confidential information shall include:

- Any decision made by the Council member or the Council, in written or in verbal form (also including notes, documents, discussions etc.)
- Information received/acquired during non-public sessions of the Council
- Public presentation/announcing of the attitudes and the opinions of the Council members during a non-public session of the Council
- Public presentation/announcing of the way the Council members voted during a non-public session of the Council
- Results from proceedings for determining responsibility
- Information regarding monitoring and evaluation of the performance of the judges
- Every other procedure which according to the Law on Judicial Council of the Republic of Macedonia and the book of rules for operation of the Judicial Council of the Republic of Macedonia may be considered as confidential.
- As well as other type of classified information, in accordance with the regulations of the Republic of Macedonia (for example, Law on classified information etc.)

A Council member shall not announce or use, for his/her own benefit, any non-public information which he/she acquired as a member of the Judicial Council of the Republic of Macedonia. A Council member shall not give a public comment regarding the way the functions have been realized, the modus operandi or decision making of the Judicial Council, which according to the Law or the principles is a private or confidential by its nature (such as the procedures for determining a responsibility).

Article 7

Principle of Responsibility

The elected members of the Council as well as the Council members appointed ex-officio, after giving the official oath before the president of the Assembly of the Republic of Macedonia and after undertaking the duty of office shall sign a statement with which they oblige to adhere to this Code of ethics while they perform the function of a member of the Judicial Council of the Republic of Macedonia.

Article 8

Principle of Publicity

Performing of the function of a member of the Judicial Council of the Republic of Macedonia is public and the Sessions of the Council are public, except in the cases when public may be excluded with a decision of the Council.

Application

The President of the Judicial Council of the Republic of Macedonia represents the council, communicates with the public (within his/her competences prescribed by law and informs the public regarding the work of the Council) unless another member of the Council is assigned for that.

No Council member may invoke the application of a law or other regulation that would limit or exclude the public in order to conceal the misuse of his/her function for the purpose of acquiring gain, benefit or advantage for him / herself or others.

A Council member shall refrain of any comment regarding procedures for determining the responsibility as to what the outcome of advocacy proceeding election of a judge or president judge may be, or the outcome from a procedure for determining the responsibility of a judge or president judge.

A Council member shall not initiate, permit or consider ex parte communications in proceeding which is not attended by all the parties in proceeding before the council, which involve proceedings for the discipline of judges or any other adversary proceedings excluding strictly administrative or scheduling matters that do not affect the substantial rights of a person with business before the Council. Any information received by a member, relevant to the disposition of a matter before the council as a whole, shall be shared with all members eligible to take part in the proceeding. This should not be construed to prohibit members from discussing such matters among themselves as individual members.

Article 9

The Judicial Council of the Republic of Macedonia shall adopt this Code of Ethics for the member of the Judicial Council of the republic of Macedonia at a session, and it will enter into force at the day it was adopted, and it shall be issued in “the Official Gazette of the republic of Macedonia”

- a)
- b)
- c)
- d)

Republic of Macedonia
Code of Ethics
For
Staff and Employees of the Judicial Council

Article 1
General Provisions

This code of ethics is promulgated for the staff, employees and administrative personnel of the Judicial Council of the Republic of Macedonia (Council Professional). These civil servants stand in a unique position compared to any other persons engaged as public servants since they serve the judicial branch. Although Council Professionals are not members of the Judicial Council of the Republic of Macedonia (Council) they are responsible for the technical, administrative and clerical work of the Council. They therefore are held to a high standard in a unique position of trust as part of the judicial branch.

Service to the judicial branch is a public trust. The judiciary is one of the tripods of a democracy. It is a foundation of a free society, which rests, in part, on the ability of its citizens to evaluate and judge the integrity of the institution, its courts and its court administration.

Council Professionals serves under the laws of the Republic of Macedonia as “Civil Servants” and are technically employees of the executive branch. As such, they are required to adhere to the Code of Ethics for Civil Servants under Article 18 paragraph 3 of the Law on Civil Servants. Council Professionals, however, are in a unique position being allocated to the Council and, while working with the Council, are under the control and direction of the Council, its members and officers. This Code is adopted pursuant to the authority of the Judicial Council as set forth in Article 31 of the Law on the Judicial Council of the Republic of Macedonia as well as under the inherent powers of an autonomous body.

This Code is intended to apply to all civil servants allocated to the Council and is a personal pledge of the trust placed in such a Council Professional by being allocated to the Council. This Code is intended to complement and supplement the Code of Ethics for Civil Servants and any other professional codes that bind court system and legal professionals. Except, that where this code is more restrictive than other professional and ethical codes the more restrictive provisions of this code shall apply. It is designed to be read in conjunction with the Code of Ethics for Civil Servants (Official Gazette of the Republic of Macedonia, no. 59/2000, 112/2000 and 34/3001) and other applicable professional codes adopted which may apply to individual employees.

Article 2
Terminology

“Council” shall mean the Judicial Council of the Republic of Macedonia

“Council Professional” shall mean any employee of the Judicial Council of the Republic of Macedonia but not Council members. This employee is a public Servant who is attached to the Judicial Council and under the Council’s supervision and control.

“Code” shall mean this Code of Ethics for the Court Professionals of the Judicial Council of the Republic of Macedonia

“Confidential” or “Nonpublic information” denotes information that, by law, is not available to the public. Nonpublic information may include, but is not limited to, information that is sealed by law or court order such as psychiatric reports.

“Family” denotes a spouse, child, grandchild, parent, grandparent or other relative or person with whom the member maintains a close familial relationship whether related by blood marriage or not.

“Impartiality” denotes absences of bias or prejudice in favor of, or against, particular candidates, judges, staff or any person having business before or with the Judicial Council.

“Independent Judiciary” is a judiciary, which is free of outside influences or control.

“Integrity” denotes fairness, honesty, uprightness and soundness of character and adherence to the rules set forth in this Code

“Impending Proceeding” is one that is reasonably foreseeable but has not yet been commenced before the Council

“Political organization” denotes a political party, political action committee or other group, the principal purpose of which is to further the election or appointment of candidates to office

Article 3

Avoiding Impropriety and the Appearance of Impropriety in All Activities

3.1 - Performing Court Duties

A Council Professional shall faithfully carry out all appropriately assigned duties striving at all times to perform the work diligently, efficiently, equitably, thoroughly, courteously, honestly, truthfully and with transparency. A Council Professional shall carry out properly issued Council orders and rules, and shall act exclusively in the public interest and at a highly professional level.

3.2 - Avoiding Impropriety

A Council Professional shall avoid both impropriety and the appearance of impropriety. A court professional shall avoid improper influences from business, family, position, party, or person. A court professional shall avoid activities that would impugn the dignity of the court. Each

employee shall avoid situations or conduct which will impair the interest or the reputation of the Judicial Council.

3.3 - Fairness

A Council Professional shall conduct work without bias or prejudice including, but not limited to, bias or prejudice based upon race, gender, skin color, religion, age, national origin, language, marital status, socioeconomic status. No employee shall be influenced in his or her official duties and acts by prejudice, realization of ambitions for career promotion, conflicts of interests, intimidation or threats by superiors or political leaders, officials or members of the Judicial Council or by any persons affected by the by a decision or act of the Council.

3.4 - Respect of Others

A Council Professional shall treat those having official business before the Council, co-workers and all others interacting with the Council with dignity, respect and courtesy. A Council Professional should always act with respect, courtesy and responsiveness acting always to promote public respect and trust in the Judicial Council and the Judicial Branch of the Republic. A Council Professional shall be responsive to inquiries regarding standard Council procedures, but shall not give legal advice unless it is required as part of one's official position.

3.5 - Involvement in Actions Before the Council

A Council Professional shall notify the General Secretary of the Judicial Council whenever he or she, has been arrested, investigated or otherwise charged with a crime. The Secretary General will report such information the Council for such action it deems necessary, if any, at the discretion of the Council.

A Council Professional shall immediately notify the General Secretary of the Judicial Council if he or she, or anyone in his or her family or with whom he or she has a close familial relationship is involved in any electoral or advocacy proceedings before the council *when* the council employee, by nature of his or her position, will have responsibility in the matter. This provision will apply whether the responsibility will be clerical or include decision-making authority. The General Secretary will determine if that person should be disqualified from working on that particular matter, depending on the totality of circumstances.

Canon 3.6 - Avoiding Privilege

A Council Professional shall use his or her official position solely for its intended purpose and shall not use his or her position (intentionally or unintentionally), to secure unwarranted privileges or exemptions for one self or others; A Council Professional shall not give out special favors to anyone, whether or not he or she was offered remuneration.

A Council Professional shall not attempt to take advantages of his or her enhanced access to Council members and/ or Council or court files to further any personal interest he or she might

have in a case or engage in *ex-parte* discussions with those who may have contested or advocacy business pending or impending before the Council.

Article 4

Performing the Duties of Position Impartially and Diligently

2.1 - Independent Judgment

A Council Professional shall use his or her official position solely for its intended purpose and shall not use the position to secure privileges or favors not warranted by merit. A Council Professional shall avoid relationships that would impair one's impartiality and independent judgment; employees of the Council shall be vigilant of conflicts of interest and ensure that outside interests are never so extensive or of such nature as to impair one's ability to perform Council duties.

2.2 - Personal Relationships

A Council Professional who is in a position of permitting the hiring, promotion or discipline of employees shall recruit, select, and advance personnel based on demonstrated knowledge, skills, abilities, and genuine work-related factors, not on favoritism. Such employee shall avoid appointing, assigning, or directly supervising, a family member, or attempting to influence the employment or advancement of a family member. Where circumstances dictate that one must work directly with a family member, a Council Professional shall report the circumstance to the General Secretary who will direct appropriate remedial action, if necessary, depending on the circumstances.

2.3 - Misconduct of Others

A Council Professional should expect fellow employees to abide by the canons set out in this code and other applicable codes. A Council employee shall report to the General Secretary the behavior of any Council employee who violates this code (and other applicable codes) including, but not limited to, potential conflicts of interest involving one's duties and attempts to inappropriately influence one in performing one's duties. Any attempt to influence another to compel one to violate these codes will also be promptly reported.

2.4 - Properly Maintain Records

A Council Professional shall not inappropriately destroy, alter, falsify, mutilate, backdate or fail to make required entries on any records within the Council's control whether records are in hard copy or electronic. Employees shall protect the integrity of the computer system of the Council and not do anything to degrade or infect the official data stored. Each employee will keep his or her data input current and follow data back-up rules as may be issued.

2.5 - Legal Requirements and Confidentiality

A Council Professional shall maintain the legally required confidentiality of the Council, not disclosing confidential information to any unauthorized person, for any purpose. A Council Professional shall properly provide confidential information that is available to specific individuals authorized to receive such by reason of statute, court rule or administrative and Council policy.

2.6 – Discretion and Conduct in Private Life

A Council Professional shall:

- a) Be respectful of candidates or judicial office, the public, applicants' and employees' personal lives;
- b) Disregard information that legally cannot or should not otherwise be considered;
- c) Use good judgment in weighing the credibility of Internet data; and
- d) Be cautious about verifying identities.
- e) Treat personal or sensitive information with the same discretion that one would wish others to have if one were involved in a similar case.

Activities in one's private life that could diminish the confidence of the public in the Judicial Council and the Judicial Branch shall be avoided as well as conduct that is in conflict with legal or ethical norms.

2.7 - Proper Use of Public Resources

A court professional shall use the resources, property and funds under one's official control judiciously and solely in accordance with prescribed procedures. The private use of Council or other judicial branch resources shall be avoided. Computers, servers, printers and other equipment shall be used only in accordance with policy rules for such equipment promulgated by the Council or other appropriate official agency.

Article 3

Conducting Outside Activities to Minimize the Risk of Conflict with Official Position

3.1 - Outside Business or Employment

The Council is a Council employee's primary employment. A Council Professional shall avoid outside activities, including outside employment and business activities that reflect negatively upon the judicial branch and on one's own professionalism. A Council Professional may engage in outside employment as long as it does not conflict with the performance of their official responsibilities or violate this code. Any such business or employment must be conducted outside of the employees usual working hours with the Council

A Council Professional shall notify the General Secretary prior to accepting work or engaging in business outside of one's Council duties. The General Secretary will consult with the Council

and the Council shall make a determination whether that outside employment or business is compatible with the employee's Council employment.

Canon 3.3 - Avoiding Gifts

A court professional shall not solicit, accept, agree to accept, or dispense any gift, favor, or loan either for oneself or on behalf of another based upon any understanding, either explicit or implicit, that would influence an official action of the court.

A Council Professional shall not request or accept any compensation or fee beyond that received from their employer for work done in the course of their public employment.

Canon 3.4 - Financial Disclosure

A court professional shall dutifully disclose all financial interests and dealings required by law, rule, or regulation of the Republic of Macedonia.

Article 4

Refraining from Inappropriate Political Activity

4.1 – Refraining from Inappropriate Political Activity

A Council Professional retains one's right to vote and is encouraged to exercise it as a part of citizenship. Engaging in any political activity is done strictly as a private citizen and only in accordance with laws of the Republic of Macedonia and Article 7 of the Code of Ethics for Civil Servants. A Council professional shall participate only during non-court hours, using only personal resources. A Council Professional shall not use one's position or title within the Judicial Council to influence others. Any such activities may not be used to influence others and the employee, in relations with citizens and other legal entities, may not mention, emphasize or indirectly state their membership in a specific political party.

Article 5

Enforcement of this Code

a) Institution of a Disciplinary Proceeding

Upon receipt of a complaint or notice alleging a violation of this Code, the president of the Judicial Council will form a select *ad hoc* disciplinary committee consisting of three members. Two members of the committee will be from high-level non-council member employees (Council Professionals) and one from the membership of the Council.

b) Complaints of a Violation of the Code

Anyone with personal knowledge of a violation of this Code or the Ethics Code for Civil Servants may file a complaint with the Council. The complaint must be in writing. It

must identify the employee alleged to have violated the Code and include a recitation of facts identifying the alleged violation and when it is alleged to have occurred.

c) *Investigation and Hearing*

The *ad hoc* committee appointed by the president is empowered to investigate the facts surrounding the complaint. The committee may dismiss the complaint summarily if it is found to be without merit on its face. If a complaint contains allegations that, if true, would constitute a violation of this Code, the committee shall cause a copy to be delivered to the member charged who will have an opportunity to respond in writing within five days. If factual questions remain, the committee shall hold a hearing at which both the complainant, the respondent and other witnesses called by either party or the committee may be heard.

c) *Rights of the Council's member*

Disciplinary proceedings should be 'judicial' in nature. In all cases, safeguards should be envisaged for the accused employee, who has the right to defend him or herself in accordance with the Civil Service laws, rules and regulations of the Republic of Macedonia for public sector employment.

Distinction should be drawn between an investigational phase that is administrative in nature, and should not envisage the right for the accused employee to be assisted by defense counsel, but during the "pre trial" and "trial" phase there must be an opportunity for the accused to defend him or herself, to appear before the designated body and be heard. The "hearing" portion of the proceedings shall be open to the public

d) *Determination and Recommended Action*

The *ad hoc* committee shall make a determination as to whether a violation of the Code had occurred and what the penalty should be. This determination shall be in writing and advisory only. It shall be transmitted to the president of the Council who shall present the recommended findings to the full Council. The full Council shall vote to accept or reject the committee's recommendation. If it is rejected the complaint is considered dismissed. If accepted, the General Secretary will see that the penalty is carried out. It will take a majority vote of the full Council to ratify a finding that a violation has occurred and to accept the sanction. The full council may dismiss the complaint, accept the recommendation or amend the sanction recommended and substitute it for another sanction permitted by this article.

e) *Factors in Determining Level of Discipline-Aggravating Factors and/or Sanctions*

- Comparing the Judicial Council employees contribution to harm from misconduct.
- Comparing the current case with discipline in other cases
- Likelihood of future misconduct
- Impact of misconduct on the Judicial Council and the judicial branch/system
- Number of wrongful acts
- Failure to appreciate the inappropriateness of conduct, lack of recognition of failings
- History of past discipline
- Failure to heed warnings from others about conduct

Dishonesty generally and in proceedings
Attempts to evade responsibility: making excuses, minimizing faults etc.
Impeding investigation and failure to cooperate with the disciplinary body
Delay and indifference to commission inquiry

d) Factors in determining level of discipline-mitigating factors

Positive attitude
Acknowledging misconduct and taking actions to correct problems
Particular efforts to improve and change
Responsiveness during the procedure
Good character and reputation

e) Penalties/Disciplinary measures

- a) ¹Private Advisory/Cautious Letter to the employee which may be issued with a dismissal prior to hearing with no finding of a violation
- b) ²Private Admonition may be issued after finding of violation only
- c) Pecuniary sanction fine not to exceed 150 Euros
- e) Letter of Finding of a Violation of Ethics Code to the appointing authority recommending removal from the position with the Council and public service

NOTE: The concept offered anticipates that all sanctions shall be internally administered within the Council except for termination of employment. The Council is an autonomous and independent institution and should administer its sanctions on accordance with the law.

¹ Advisory/Cautious letter (No violation) is a non-disciplinary letter (prepared by the Disciplinary body) that advises the Council member regarding future conduct.

² To be used when a is a nonpublic sanction imposed by the disciplinary body for misconduct of an isolated and non-serious nature.

LAW ON COURT SERVICE

I. BASIC PROVISION

Article 1

This Law shall regulate the status, rights, duties, responsibilities of the court service, the system of salaries and benefits of the court service, as well as the case management.

Article 2

The court service is composed of the court employees, ~~and the court police.~~

Deleted: persons employed in the courts who perform technical and supporting duties

Article 3

A court employee is a person who performs in the courts professional, managerial-supervisory, administrative-technical, executive, statistical, ~~material-financial~~ matters and technical-supporting duties in accordance with this and other laws. The court employees shall realize their labor rights according to this Law, the collective agreements and the other provisions which regulate the labor relations rights.

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~~The court police are a service which secures the facilities, property and persons and maintains the order in the area of the court. The court police shall establish the labor relation rights in accordance with this Law, Law on Courts, the collective agreements and other provisions which regulate the labor relations rights.~~

Deleted: The persons employed in the courts, who perform the technical and supporting duties do not have a status of a court employee and for them the general provisions for labor relations shall be valid.

Article 4

The court service shall perform the tasks determined by law on the basis of the principles of legality, professionalism, responsibility, efficiency, cost-effectiveness, and transparency.

Article 5

The court employees, within their jurisdiction, shall be responsible to provide to the citizens efficient and legal fulfillment of their constitutional freedoms, rights and interests in the procedures in front of the courts.

Article 6

While employing the court employees in the courts the principle of just and equal representation of the citizens that belong to all communities shall be applied, while respecting the criteria of professional knowledge and competence.

Article 7

The court employees, depending on the official tasks they perform shall be classified in the following groups and titles:

- I Leading court employees;
- II Professional court employees; and
- III Administrative - technical court employees

The leading court employees are:

- Court Administrator of the Supreme Court of RM, Court Administrator of the Administrative court and the appellate courts, Court Administrator of the basic courts with extended jurisdiction, Court Administrator of the basic courts with basic jurisdiction that have more than 7 judges;
- Assistant Court Administrator of the Supreme Court of RM, Administrative Court, appellate courts, and basic courts with extended jurisdiction;
- Head of Department;
- Head of the Information Technology Center of the Supreme Court of RM;
- Assistant to the Head of the Information Technology Center of the Supreme Court of RM; and
- Head of Unit.

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The professional court employees are:

- independent court advisor;
- senior court advisor;
- court advisor;
- senior court associate;
- court expert associate; and
- court apprentice.

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The administrative - technical court employees are:

- independent court clerk;
- senior court clerk;
- court clerk;
- junior court clerk.

The court employees from group I and II have university degree and the court employees from group III have university degree, senior or high school education.

The description of the titles of the court employees are determined with an act by the Court Service Council.

Court Service Council

Article 8

For the fulfillment and protection of the rights of the court service a Court Service Council shall be established (hereinafter: Council), with a seat in the Supreme Court of the Republic of Macedonia.

The Council has eleven members out of whom five come from the ranks of the court administrators in the courts and four members from the ranks of the president judges.

The Council shall be composed of the court administrator of the Supreme Court of the Republic of Macedonia, the court administrator of the Administrative Court, the court administrators of the appellate courts as permanent members, four members from among the court administrators or heads of units from the courts, that do not have court administrators, and one member from the Court Administration Association, that will rotate among themselves on three-year period, according to the order of the courts stipulated in the Law on Courts. A president shall be selected from the ranks of the Council members, with a two-year mandate.

If the court administrator, who is a Council member, has been deciding in the first instance, s/he shall be recused in the decision making process.

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Deleted: and four president judges using the two-year rotation system, respecting the following order of the courts: Skopje 1, Basic Court Gevgelija, Appellate Court Stip, Basic Court Krusevo, Basic Court Strumica, Basic Court Tetovo, Basic Court Delevo, Appellate Court Skopje, Basic Court Veles, Basic Court Resen, Basic Court Ohrid, Basic Court Skopje 2, Basic Court Radovis, Appellate Court Bitola, Basic Court Prilep, Basic Court Berovo, Basic Court Gostivar, Basic Court Struga, Basic Court Sveti Nikole, Basic Court Kumanovo, Basic Court Kavadarci, Appellate Court Gostivar, Basic Court Kriva Palanka, Basic Court Negotino, Basic Court Stip, Administrative Court of the Republic of Macedonia, Basic Court Vinica, Basic Court Kocani, Basic Court Kicevo and Basic Court Bitola, Basic Court Kratovo, Basic Court Debar.¶

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Article 9

The Council shall perform the following tasks¹:

- decide in second instance upon appeals and objections filed against decisions of the president judges for employing and terminating the employment in the court service;
- decide in second instance upon appeals and objections filed against decisions of the court administrator within the scope of his/her work;
- decide in second instance in the disciplinary procedures;
- decide in second instance upon appeals and objections filed against decisions for fulfillment of labor relations rights of the court service; and
- give consent to the acts for internal organization and systematization in the courts.

¹ It is recommended all additional tasks and duties of the Council proposed by CAA, to be added to the article 9 of this Law.

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Article 10

The Council shall pass the decisions at a session with majority votes from the present members.

The professional-administrative tasks for the Council shall be performed by a unit within the Supreme Court.

Article 10-a

The Council has a budget as a beneficiary of the court budget.²

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Court Administrator

Article 11

The court administrator manages the court service and is responsible for the fulfillment and realization of the professional and administrative – technical matters of the court.

The court administrator is helping the President Judge in the fulfillment of the court management matters and implementation of the Court Book of Rules.

II. EMPLOYMENT OF THE COURT EMPLOYEES

Article 12

A person fulfilling the following general conditions can be employed as court employee:

- 1) to be citizen of the Republic of Macedonia;
- 2) to be an adult;
- 3) to have completed appropriate level of education, according to Article 7 from this Law;
- 4) to have the necessary work experience except for the titles court assistant and junior court clerk;
- 5) not to have pronounced against him/her a ban for performing a profession, occupation or duty and
- 6) the five most successful candidates who have passed the general and special part of the exam to be generally in good health.

The Act for organization and systematization of the working positions can determine also the special conditions for employment of a civil servant.

The proofs for fulfillment of the general and special conditions of the public announcement shall be submitted by the most successful candidates, five at the most.

The vacancies that are envisioned by the Act for organization and systematization of the working positions shall be filled within three years at the latest, from the day this Law is enacted.

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² The possibility and consequences of this amendment should be discussed with the Court Budget Council.

The procedure for filling the vacancy shall start within 60 days at the latest from the day the position became vacant.

Article 12-a

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The employees in the court service shall be employed by:

- public announcement; and
- transfer of a court service employee from one court to another.

The employees in the court service shall be promoted by an internal announcement for selection of a court service employee.

Article 13

The president judge shall submit the request for filling the vacant position to the Court Budget Council.

The Court Budget Council, after determining that the request from the court is grounded, shall issue a consent for filling the vacant position to the court that is requesting it, within 15 days after the reception of the request.

The Court Budget Council shall reject the request from the court for filling the vacant position, if this position was not planned with the Systematization Act of the court.

The President of the Court shall inform the Court Budget Council that the procedure for filing the vacant position has commenced.

Article 14

The public vacancy announcement for selection of a court employee shall be published in at least two daily newspapers, out of which at least in one that is published in the Macedonian language and in one of the newspapers published in the language spoken by at least 20% of the citizens that speak the official language, different from the Macedonian language. The public announcement shall be also published on the web-page of the court, and on the bulletin board.

The public vacancy announcement is published by the court, upon previous consent from the Court Budget Council.

The time limit for responding to the published announcement cannot be shorter than five days from the day of publishing the announcement.

The candidates shall submit the necessary documents to the court in which the court employee will be employed.

Article 15

The president judge establishes a three-member Committee for selection of the court employee composed of:

- the court administrator as head of the Committee; if the court administrator cannot be a head of the Committee, the assistant court administrator shall be assigned as a head of the Committee,
- one leading or professional court employee from the court in which the court employee will be employed, and
- one court employee of the same rank as the vacant work position, which is being announced.

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In the courts, where according to this Law there is no court administrator, the president of the Committee shall be a court employee from the ranks of the leading or professional court employees.

Article 16

After the expiration of the time limit for applying, the Committee from Article 15 of this Law shall check the filed documents and shall discard the documents not filed on time as well as the incomplete documents.

For the candidates that have properly applied to the public announcement, an exam will be organized, within 15 days.

The exam consists of three parts, as follows:

- written part, for which the Court Service Council will compose the questions,
- practical part, working on computers, composed by the Court Service Council, and
- interview with candidates.

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The interview will be organized with at most five most successful candidates that have passed the professional and practical part of the exam, and it has to be scheduled not later than eight days from the day of closing the exam.

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Within five days after the interview, the Committee shall create a rank-list of the top three candidates which will be submitted to the president judge.

Article 17

Within five days after the reception of the rank-list, the president judge shall select one out of the three candidates.

The decision of the president judge shall be sent to all candidates who have passed the written and practical part of the exam.

Article 18

The candidate who is not selected is entitled to an appeal against the decision for selection, made by the president judge, from Article 17 of this Law, filed to the Council, within eight days from the day of reception of the written information for the completed selection.

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The appeal postpones the enforcement of the decision from Article 17 of this Law.

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The Court Services Council decides upon the appeal within fifteen days from the day of its reception by the Council.

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After the decision on the selection of the court employee becomes legally valid, the president judge passes a decision for employment.

Article 19

The court employee, with his/her consent, can be employed from one into another court, without public announcement, if the president judges of the courts agree on this, upon previous consent from the Court Budget Council.

Article 20

The Court Service Council shall determine with sub-regulations the criteria and the procedures for selection and employment of the court employees.

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Filling of the Temporary Vacant Positions and Starting Employment for a Limited Period of Time

Article 21

The filling of a temporary vacant position is done in the following cases:

- the court employee is taking a longer sick leave according to the law (due to illness or maternity leave),
- the court employee is attending professional training,
- the court employee is taking unpaid leave of absence,
- when the position of the court employee is put on hold.

The president judge shall send notification to the Court Budget Council about the absence of the court employee, and that the position will be filled according to the law.

Assignment of the Court Employees

Article 22

The court administrator, upon proposal from the leading court employees, shall assign the court employees at the appropriate work positions, for which they fulfill the conditions stipulated with the systematization act of the work positions in the court.

Deleted: president judge

Deleted: court administrator

In the courts where there is no court administrator, the assignment from the article 1 of this Law, shall be done by the president judge.

Promotion of the Court Employees

Article 23

The court that has a vacancy, shall post an internal announcement for filling the vacant work position. If there are no candidates who fulfill the conditions specified in the internal announcement, than the court shall post a public announcement.

The internal announcement shall be applied for all the work titles, except for the junior court clerk and court associate.

The promotion of the court employees shall be done following the manner and procedure determined with the Regulation, passed by the Court Service Council.

The Court Service Council shall pass a Regulation on determining the manner and the procedure for promotion in the court service, and for the procedure for posting internal announcement.

Deleted: president judge, upon proposal from the court administrator and the judge, that the professional court employee is working with, shall

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Deleted: and based on the work results, work experience, performance evaluation, success and professionalism while performing the tasks.

Deleted: Minister of Justice

III. RIGHTS AND DUTIES OF THE COURT SERVICE

Article 24

The employee in the court service is entitled to:

- 1) salary in a manner determined with this Law, as well as right to other benefits which emerge from the labor relation;
- 2) paid vacation and leave of absence determined with law or other regulation;
- 3) expert and professional development;
- 4) establishing or joining a union or other associations according to the Constitution and the laws; and
- 5) strike according to this Law.

Working Hours

Article 25

The working hours in the court are 40 hours in the working week (full working hours) according to the law.

Breaks, Vacations and Absences

Article 26

During the working hours the court employee who works full hours is entitled to a break according to the Law.

Article 27

The employee in the court service is entitled to annual vacation time in duration of 20, but no more than 26 working days, except in cases set forth in article 26-b from this Law.

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If the employee does not have one year of work in the calendar year when s/he was employed, s/he is entitled to an annual vacation in duration of two working days for each month spent at work, but no longer than 12 days.

The annual vacation shall be used during the calendar year, as a general rule.

The annual vacation can be used in two parts. If the court service employee uses the annual vacation in parts, the first part has to be in duration of at least 12 working days in the period of 15th of July to 1st of September. The court service employee shall use the second part of the annual vacation, upon decision of the court administrator, latest by 30th of June next year.

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The court service employee is entitled to use the first part of the annual vacation which has been interrupted or has not been used due to illness or maternity leave during the calendar year, latest by 30th of June next year, provided that s/he has worked at least 6 months during the calendar year.

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Article 27-a

The basis for calculating the annual vacation is 20 working days.

The annual vacation for the court service employees shall be calculated based on the following criteria:

On the base of education, it shall be added to the basis:

for university degree - 3 working days

for senior education - 2 working days

for high school education - 1 working day.

On the base of working experience, it shall be added to the basis:

for 1-10 years of experience – 1 working day

for 10-15 years of experience – 2 working days

for 15-25 years of experience – 3 working days

more than 25 years of experience – 4 working days.

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Article 27-b

The court service employees who are disabled persons, persons with at least 60% of physical disability, and persons who nourish or take care of children with physical disabilities or mental disorders, shall be entitled to additional 3 working days to the annual vacation.

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Article 27-c

The annual vacation shall be approved by the court administrator with a decision. The decision for approving the annual vacation shall be given to the court service employee at latest 15 days before the start of the vacation.³

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Paid Absence

³ The provisions for using the annual vacation in two parts should be taken over from the Law on Labor Relations.

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Article 28

The employees in the court service are entitled to paid absence from work in the following cases:

- for marriage of the court employee 3 days,
- for marriage of the children 2 days,
- for births of a child 2 days,
- for adoption of a child 2 days,
- for death of a spouse or a child 5 days,
- for death of a parent, brother or sister 2 days,
- for death of a parent of the spouse 2 days,
- for death of a grandfather or grandmother 1 day,
- for passing a professional exam for the needs of the court 3 days,
- for moving from one city to another 2 days,
- for movement within the same city 1 day,
- for natural disasters 3 days

- for blood donators 2 days

The blood donor is entitled to a leave of two consecutive working days, which have to be used immediately after the blood donation.

The request or the information for the using days according to paragraph 1 of this article shall be submitted to the court administrator, who is obligated within 1 to 3 days to give an approval for using these days.

Unpaid Absence

Article 29

The employee in the court service is entitled to be absent from work without salary compensation and salary benefits, not longer than three months during a calendar year, as follows:

- for performing urgent personal and family matters,
- for nursing a family member who is very ill,
- for visit of a member of the immediate family abroad,
- for construction or renovation of apartment or family house,
- for medical treatment of the court employee on his/her own expense,
- for participation in cultural and sport manifestations,
- for participation at seminars, workshops and congresses in the country and abroad,
- for trips abroad and

- for taking professional exam.

The request for using unpaid leave of absence, together with the explanation shall be submitted to the court administrator.

The court administrator is obligated to pass a decision within five days from filing the request.

An appeal can be filed against the decision, to the Council, within three days.

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Standstill of the Work Relationship

Article 30

If the court employee is selected or appointed to a state or public function, determined by law, the performance of which is requiring from him/her temporarily to stop performing the work duties and tasks, his/her employment relationship is put on standstill, during the performance of the function and he/she is entitled within 30 days, after ending the function, to come back to the court, from which he/she left in order to perform the function, to the working position that is appropriate to his/her level of professional background.

Article 31

The employment relationship of the court employee who has been sent to work abroad, as a part of an international- technical or educational- scientific cooperation, in diplomatic or consular offices is put on standstill, and he/she is entitled within 30 days from the day of finishing the work abroad to come back to work in the court, from where he/she left abroad, to the working position that is appropriate to his/her level of professional education.

The employment relationship of the court employee whose spouse was sent to work abroad, as a part of an international- technical or educational- scientific cooperation, in diplomatic or consular offices is put on standstill on his/her request and he/she is entitled within 30 days from the day of finishing the work abroad of his/her spouse to come back to work in the court, from where he/she left abroad, to the working position that is appropriate to his/her level of professional education.

Article 32

The employment relationship of the court employee who is attending initial training for judges at the Academy for training of judges and public prosecutors is put on standstill, and he/she is entitled within 15 days from the day of completing the training to come back to work in the court, where he/she was employed.

The court is obligated, after the completion of the training, to return the court employee, whose work relationship was put on standstill due to the attending of the initial training for judges, to a position at which s/he had worked before attending the initial training.⁴

Deleted: that is appropriate to the level and type of his/her education

Work of the Court During Strike

Article 33

During a strike of the court employees, the court matters that have been determined as urgent according to the Law on Courts, shall be carried out.

Deleted: related to scheduled hearings and arraignments, respectively the public sessions for passing and submitting of all the decisions within the legal time limit

Deleted: In procedures that have been determined as urgent according to the law, respectively for matters which according to the law and nature of things are considered as essential, the court is obligated to work also, during the time of strike.

⁴ The text of the Law on Civil Servants should be taken over regarding this issue.

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Article 34⁵

During the strike, the court employees which participate in the strike must not obstruct the working of the court and of the employees which do not participate in the strike and must not block the entry and the exit of the court.

Deleted: For uninterrupted organization of the work of the court and keeping records of the employees for payment of salaries during conditions of strike, the court employees shall declare in writing their participation in the strike.

Duties of the Court Employees

Article 35

The employee in the court service is obligated to:

- 1) respect the working hours;
- 2) perform his/her task in a professional manner, conscientiously, responsibly, timely and efficiently, according to the Constitution of the Republic of Macedonia, the laws and the Court Book of Rules;
- 3) to perform his/her tasks impartially and without influences from political parties;
- 4) not to present or propagate publicly his/her political convictions at his/her work and to abuse his/her religious convictions;
- 5) to carry out the orders from the president judge, the judges, court administrator and his/her superior court employees.
- 6) to protect the classified information and the dignity of the court,
- 7) not to receive gifts, monetary compensation or any other gain, benefits or service.
- 8) to carry in a visible position a name tag with the personal name during the office hours at work and
- 9) expert and professional development.

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Article 36

If the employee in the court service feels that the issued order is not in compliance with the Constitution of the Republic of Macedonia, the laws and the Court Book of Rules or any other provision, it shall notify the issuing authority that the order is illegal.

If the issuing authority repeats the order, the court employee is entitled to ask for a written order for performing the decision, where the identity of the issuing authority is stated, as well as the precise content of the order.

If the order has been issued in writing, the court employee is entitled to perform it, except if he/she assessed that its performance presents a criminal act, in the case of which the court employee shall reject the performance of the decision and shall inform the immediately superior court employee to the one that has issued the decision, the Council and the State Committee for Preventing Corruption.

If the employee in the court service does not warn the immediately superior employee that the decision is unconstitutional and illegal and if he/she carries out the decision, he/she will be held responsible for its fulfillment, in the same degree as the one that has issued the order.

⁵ A modus should be considered for exemption of the court employees who do not agree to join the strike.

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The employee in the court service cannot be taken responsible for the notification from paragraph 1 of this Article.

Article 37

The employee in the court service during the working hours cannot leave the work position and exit the court, without a permit from the superior employee, except during the break time, previously determined with the work program of the court, and in case of urgent and justified reason, he/she should justify his/her absence to the court administrator immediately after returning back to work.

In case of impossibility to come to work, the court employee is obligated to inform the court administrator on the reasons of absence, not later than 24 hours from the absence.

Article 38

The employee in the court service must not participate directly in political election campaigns or other public appearances of that type during the working hours.

The employee in the court service must not wear or place party symbols at the working post.

IV SALARY AND SALARY ALLOWANCES SYSTEM OF THE COURT EMPLOYEES⁶

Article 39

The employee in the court service is entitled to salary and salary allowances, appropriate to his/her work position under the conditions and criteria determined with this law and the type of the education.

The salary and salary allowances of the court employees are provided by the court budget.

The salary of the court employee shall be calculated and paid in gross amount once a month during the current month for the past month.

Article 40

The salary of the court employee is comprised out of two following components:

- basic component
- exclusive component.

The basic component consists of the following:

- basic salary,
- salary supplement for the title, and

⁶ The provisions from the articles 48-72 of the Law on Civil Servants should be taken over, in order to complete and clarify the text.

- salary supplement for carrier

The exclusive component consist of the following:

- salary supplement for special working conditions and
- extraordinary working salary supplement (overtime work).

Article 41

The basic salary which is paid to the court employee is provided by valuing the appropriate level of education determined with the Systematization Act for the working positions, for the position on which he/she is assigned to and the work experience.

The level of education determined for the appropriate group in accordance with Article 7 of this Law is valued as follows:

- university degree with passed Bar exam 300 points
- university education 250 points,
- senior education 200 points,
- high school education 150 points,
- persons to whom a high school education was acknowledged 100 points.

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The work experience of the court employee after the expiration of the calendar year is valued in the amount of 0.5% from the salary but cannot be higher than 20%.

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Article 42

With the salary supplement for title is provided valuing of each title depending on the type and amount of the work, the complexity and responsibility for performing the tasks.

The salary supplement for titles is valued as follows:

- court administrator of the Supreme Court 706 points
- court administrator of the Administrative Court, of the appellate courts, of the basic courts with extended jurisdiction, and basic courts with basic jurisdiction that have more than 7 judges 516 points
- assistant court administrator of the Supreme Court of RM, Administrative Court, appellate courts and basic courts with extended jurisdiction 426 points
- head of department 406 points
- head of unit 346 points
- independent court advisor 326 points
- senior court advisor 306 points
- court advisor 281 points
- senior court associate 246 points
- court associate 231 points
- court assistant 206 points
- independent court clerk 196 points
- senior court clerk 181 points

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- court clerk 166 points
- junior court clerk 146 points

Salary supplement for a carrier

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Article 43

The value of the point is determined each year with a decision from the Court Budget Council, but it should not be lower than the previous year.

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Salary Allowances
 Article 45

The employees in the court administration are entitled to salary allowances, such as:

- for travel, per diem and other expenses for trips in the country and abroad,
- expenses for using the private motor vehicle for official trips in the country and abroad,
- expenses for separated life from the family,
- movement expenses,
- expenses for funeral of the court employee or a member of his/her immediate family (spouse, children born in the marriage or out of wed lock, foster children, adopted children and supported children),
- allowance in the amount of one salary if he/she uses sick leave longer than six months.

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 ¶
 Article 44¶
 The salaries of people employed in the courts who perform technical and supporting tasks are within the framework of the salaries determined for the administrative-technical court employees, depending on the level of education, assigned working position, in accordance with the Systematization Act and the work experience.

The amount of the allowance from this Article is determined each year with the Law on Budget Enforcement of the Republic of Macedonia, and shall be paid in amount corresponding to the real needs.

The court employees are entitled to a compensation for any additional work, which is not specified in the job description set forth with the Act for Systematization (ex: participation in committees).

The manner, conditions and criteria for gaining the right for payment of the career supplement are prescribed by the President of the Court Budget Council upon previous consent from the Minister of Finance.

The court employee, who significantly contributes to the implementation of the judicial function in the court where s/he works, by an outstanding engagement and quality of work, shall be entitled to a monetary award, in the amount up to one salary that s/he earns.

The president judge shall decide on the award from the article 5 of this Law, upon proposal of the court administrator.

The court employee when being retired shall be entitled to a severance payment in the amount of two average salaries paid within the economic sector of the Republic of Macedonia, for the last month when the employee was retired.

Article 45-a

The court service employees shall be entitled to a salary supplement for special working conditions, as follows:

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- overtime work,
- night work,
- work exposed to a high risk,
- work during a weekend and
- work during holidays set forth by law

The court police is entitled to a salary supplement for the work in shifts i.e. turns.

The salary supplement for night work calculated on hourly basis shall be evaluated in the amount of 35% of the basic salary and the salary supplement for title calculated on hourly basis.

The court employee for the work during holidays set forth by law shall be entitled to a salary supplement calculated on hourly basis in the amount of 50% of the basic salary and the salary supplement for title.

The court employee shall be entitled to a salary supplement if s/he works longer than the full working hours, in the amount of 35% calculated on hourly basis of the basic salary and the salary supplement for title, provided that s/he worked upon direction of the immediately superior manager.

⁷

The salary supplement for special working conditions, as well as the form for registering working hours under conditions specified in paragraph 1 of this article, shall be regulated by the Court Budget Council upon prior consent of the Minister of Finance.

Article 46

If the employee in the court service is on a sick leave in duration of seven days is entitled to salary in the amount of 70%, up to 15 days in the amount of 80%, and up to 60 days in the amount of 90% for the days that he/she is on a sick leave.

For professional illness and injury at work the court employee shall be paid a salary in the amount of 100%.

Article 47

If the court employee is sent to professional training and development and by the court, he/she will be paid 100% of the salary.

V. RESPONSIBILITY OF THE COURT EMPLOYEES

Article 48

⁷ The next items of this article should be supplemented with the provisions from the Law on Civil Servants.

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The court employees are responsible for the performance of the official tasks.

Disciplinary Responsibility

Article 49

For the violation of the official duty, the court employee shall be hold disciplinary responsible.

The responsibility for committed criminal act, respectively misdemeanor, does not exclude the disciplinary responsibility of the court employee.

Article 50

The court employee shall be hold disciplinary responsible for minor and severe disciplinary violation.

Minor disciplinary violation of the official duty is:

- 1) not coming to work in the defined time and leaving work before the end of the work hours, besides the reprimand of the immediately superior court employee;
- 2) keeping the court files and data in unorganized manner;
- 3) unjustified absence from work up to two working days during one calendar year;
- 4) not wearing name tag;
- 5) refusing the professional development that the court employee is sent to; and
- 6) not respecting the working hours, the agenda and the use of the working time.
- 7) unjustified lack of informing the immediately superior court employee, respectively the court administrator or the president judge for impossibility to come to work within 24 hours.

Article 50-a

For the abuse of the official duty the following disciplinary measures may be pronounced to the court service employee:

Written warning,

Public reprimand,

Monetary fine in the amount of 10% to 30% of the monthly salary paid to the court employee in the last month before performing the disciplinary negligence, in duration of one-three months,

Assignment to a lower work position and lower title, in duration of six months up to one year,

Termination of employment.

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Article 51

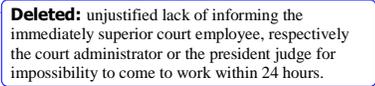
For a minor disciplinary violation the following measures can be pronounced: reprimand, public warning, or a monetary fine in the amount of 10% from one month's

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net salary, paid in the last month before performing the disciplinary negligence, in the duration from one to three months.

Article 52

Severe disciplinary violation is:

- 1) non-performance or unconscientiously, indecent, untimely or negligent performance of the official duties;
- 2) expressing and advocating political beliefs when performing the official tasks;
- 3) refusing to provide or providing incorrect data to the state bodies, legal entities and citizens, if the provision of data is prescribed by law;
- 4) illegal management with material assets;
- 5) refusing to perform the official tasks of the job he/she is assigned to or refusal of orders given by the president judge, court administrator, or the immediately superior court employee;
- 6) non-compliance with the regulation for work during the conditions of strike
- 7) not undertaking or undertaking partially the prescribed security measures for protection of the entrusted objects;
- 8) causing major material damage;
- 9) repeating a minor disciplinary violation;
- 10) receiving gifts or other benefits;
- 11) abuse of the status or overstepping of the authorizations during the performance of the official tasks;
- 12) abuse of the sick leave;
- 13) disclosing classified information with a level of confidentiality determined in accordance to the law;
- 14) bringing in, use and work under the influence of alcohol or narcotics;
- 15) not respecting the provisions for protection from illness, protection at work, protection from fire, explosion and dangerous exposure to poisons and other dangerous materials and violation of the provisions for protection of the environment;
- 16) placing the personal financial interest in front of the position and the status of the court employee;
- 17) offensive or violate behavior;
- 18) 

For the disciplinary offences listed under paragraph 1 of this Article the following shall be imposed:

- a fine in amount of 10% to 30% of the monthly net salary paid to the court employee in the month before the severe disciplinary violation was performed, in duration from one to six months;
- assignment to a lower position and lower title, in the duration of six months up to one year, after the period of which the court employee shall return to the position he/she was assigned to before imposing the disciplinary measure; and
- termination of the employment, when harmful consequences have occurred for the court or the parties.

Article 53

The sum of the monetary fines imposed to the court employee in one month for a minor and severe disciplinary violation cannot be higher than 30% of the amount of his/her total net salary for that month.

Article 54

Disciplinary measures against the court employee for minor disciplinary violation shall be pronounced by the court administrator, respectively the president judge if the court does not have a court administrator, upon previous written report from the immediately superior court employee or the judge with whom he/she works.

Before the pronouncement of the measure, the court employee shall be informed about the allegations that exist against him/her and he/she has a possibility to respond to the report from paragraph 1 of this Article.

Article 55

The court president shall establish a Committee for the disciplinary procedure for severe disciplinary violation (hereinafter: Committee).

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The Committee from paragraph 1 of this Article shall be composed of three members, as follows: two from the rank of the leading or professional court employees, and one court employee with the same title as the court employee against whom the procedure has been initiated.

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The Committee from paragraph 1 of this Article, after the undertaken disciplinary procedure shall propose the appropriate disciplinary measure to the president judge.

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If the Committee from paragraph 1 of this Article determines that the court employee is not responsible or the conditions for pronouncing a disciplinary measure were not fulfilled, shall propose to the president judge to dismiss the proposal, respectively to stop the procedure.

The president judge, based on the Committee's proposal, within 3 days from the day of submitting the proposal of the Committee, shall pass a decision for pronouncing a disciplinary measure, respectively for dismissing the proposal, respectively for stopping the procedure.

The decision for pronouncing a disciplinary measure shall be given to the court employee in person, by rule, in the working premises of the court where the court employee is working, respectively at the dwelling address, respectively the address of residing, from where the court employee comes to work on daily basis.

If the court employee can not be reached at the dwelling address, respectively the address of residence or if he/she refuses to accept the decision, the decision will be announced at the information board in the court. After three working days from the day of posting the decision on the information board, it shall be considered that the decision has been delivered.

The decision on the undertaken disciplinary procedure shall be passed not later than 60 days, calculating from the day of initiating the disciplinary procedure, otherwise, the procedure shall be considered as stopped.

If the disciplinary procedure is initiated against the court administrator, the Committee from paragraph 1 shall be established by the president judge from the rank of the leading or professional court employees.

Article 56

Every court employee, in accordance with the law, has the right to file an initiative for commencement of a disciplinary procedure against a court employee, and that initiative must be justified.

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The proposal for initiating a disciplinary procedure against a court employee shall be filed by the immediately superior court employee or judge that works with him/her, respectively the court administrator or the president judge in the courts that do not have a court administrator.

The proposal from paragraph 2 of this Article shall be submitted to the court employee, the court administration association, and the union organization, which the court employee is a member of.

Article 57

The disciplinary procedure cannot be initiated if three months have passed from the day when the immediately superior court employee, court administrator or the president judge in the courts that do not have a court administrator, has found out about the violation of the official duty.

Article 58

The disciplinary procedure cannot be initiated if one year has passed from the day when the violation of the official duty was committed.

Article 59

If the violation of the official duty includes a criminal responsibility as well, the disciplinary procedure for determining the responsibility of the court employee shall fulfill the statute of limitations within two years from the day of finding out about the violation.

Article 60

The court employee can be suspended from the court based on the decision from the president judge, upon the proposal of the immediately superior leading court employee, respectively the court administrator.

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The court employee can be suspended from the court in case when a criminal procedure was initiated against him/her for a criminal act committed at work or related to the work, or if a disciplinary procedure was initiated for severe disciplinary violation, and the violation is such in nature that his/her further presence in the court, during the time of the procedure, shall have damaging reflection over the work, respectively it shall hinder or disable the determination of the responsibility for the disciplinary violation.

The suspension from paragraph 2 of this Article shall be in force until the passing of a legally valid or final decision.

Article 61

The court employee is entitled to an appeal, to the Council, against the decision pronouncing a disciplinary measure for severe disciplinary violation and the decision for suspension, within eight days from the day of receiving the decision.

Article 61-a

The Court Service Council within 60 days from the day when this Law enters into force, shall pass a Regulation on conducting disciplinary procedure against court service employees.

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Material Liability

Article 62

The court employee shall be liable for any damage caused by him/her to the court, at work or in relation to his/her work, intentionally or due to complete negligence.

The president judge shall establish a Committee for determining the material liability of the court employee.

The Committee from paragraph 2 of this Article shall be composed of three members, as follows: one judge, court administrator and one court employee from the ranks of the professional court employees.

In the Courts which do not have a court administrator, a member of the Committee shall be a court employee from the ranks of the leading or professional court employees.

The Committee from paragraph 2 of this Article shall determine the material responsibility for the existence of the caused material damage, the level of damage and the manner of caring it out, as well as who caused it and who will compensate for it.

The Committee from paragraph 2 of this Article, shall file a report on the determined factual condition, based on which the president judge shall pass a decision for damage compensation.

Against the decision from paragraph 5 of this Article, the court employee is entitled to an appeal to the Council within 8 days from the day of receiving the decision.

If the court employee does not compensate for the damage within 3 months, the president judge shall initiate a procedure for damage compensation, in accordance to the Law on Obligatory Relations.

If responsibility was determined and damage was caused by the worker, than within 3 months from the date the decision on the disciplinary responsibility became final, the damage should be compensated or court procedure should be initiated for damage compensation.

Liability of the Court Police and the Persons Employed in the Courts Who Perform Technical and Supporting Tasks

Article 63

The provisions in this Law for disciplinary and material liability of the court employees shall be applied appropriately to the members of the court police and the persons employed in the courts that perform technical and supporting tasks.

VI. EVALUATION OF COURT EMPLOYEES

Article 64

The court employees, shall be evaluated each year on the basis of continuous monitoring of their work.

The evaluation shall be performed not later than the first quarter of the following year for the year that has passed.

The court employees who have been absent from work during the year for a period longer than 6 months (sick leave, unpaid leave etc.), as well as the court employees that were employed in the courts for the first time in the year for which the evaluation is performed and have worked less than six months, shall not be evaluated.

The manner, procedure and the form for evaluation of the court employees shall be determined by the [Court Service Council](#) with sub-regulations.

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Article 65

[The evaluation of the court administrator and the court police shall be carried out by the president judge.](#)

The evaluation of the court employees shall be carried out by the court administrator, [upon prior opinion of the immediately superior court employee.](#)

[The evaluation of the leading court employees shall be carried out also upon prior opinion of the judge that the professional court employee works with.](#)

In the courts that do not have a court administrator, the evaluation is carried out by the president judge.

Article 66

The evaluation of the court employees is performed on the basis of data related to their work results and personal qualities that they have shown in the course of their work.

The evaluation of the professional court employees is performed on the basis of data related to their work results and personal qualities that they have shown in the course of their work, upon previously obtained opinion [about the professional part](#) from the

judge that the professional court employee works for, according to the annual work assignment plan.

Article 67

- 1) The court employee can be evaluated with the mark “distinguishing” “satisfactory”, “partially satisfactory” and “not satisfactory”.
- 2) The court employee who is not satisfied with the evaluation is entitled to file an objection to the president judge, within 5 days after the day receiving the evaluation form.
- 3) The president judge can accept the objection and change the mark, reject or dismiss the objection.
- 4) If within 3 days after the filing of the objection the president judge does not pass a decision, the objection will be considered as rejected.
- 5) The unsatisfied court employee is entitled to an appeal to the Court Service Council within 8 days after the day of reception of the decision upon objection.

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Article 68

The court is obligated not later than one month after the evaluation, to submit a report on the performed evaluation to the Administrative Office of the Court Budget Council, as the office authorized to maintain the Register of Court Employees.

VII. TERMINATION OF THE EMPLOYMENT

Article 69

The employment of the employee in the court service shall be terminated:

- upon consent;
- upon his/her personal request;
- upon the force of a law;
- in case of death and
- in other conditions stipulated with this law.

Article 70

The employment of the employee in the court service shall be terminated upon consent when he/she will conclude a written consent with the president judge for termination of the employment.

Article 71

The employment of the employee in the court service shall be terminated if he/she files a written request for termination of the employment.

In case the employment is terminated by the request of the court employee, the termination period shall be 30 days from the day of filing the request for termination of the employment, unless otherwise agreed with the president judge.

Article 72

The employment of the employee in the court service shall be terminated upon the force of a law:

- if he/she loses the work capability – with the day of filing the legally valid decision for determining the lost work capability;
- if his/her citizenship of the Republic of Macedonia is terminated - with the day of filing the final decision for terminating the citizenship of the Republic of Macedonia;
- if a penalty or misdemeanor sanction for ban for performing a profession, occupation or duty was pronounced against him/her – with the day the penalty, respectively the misdemeanor sanction becomes legally valid;
- if he/she is convicted for a criminal act related to the official duty or other criminal act that makes him/her unworthy to be a court employee or to perform the service in the court – with the day of receiving the legally valid decision;
- if he/she is serving a prison term sentence that is longer than six months – with the day when the initiation of the penalty comes in force;
- if he/she fulfills the retirement conditions in accordance with the law.

Article 73

The employment of the employee in the court service shall be terminated also in the following cases:

- if he/she is unjustifiably absent from work minimum three days in a row in one month, or six days in the course of the year;
- if twice in a row or, if at least for three times in the last five years was evaluated with “not satisfactory”;
- if it is determined that during the employment did not tell or has given false data regarding the general and special conditions for employment;
- if within 15 days after finishing with the professional training or development does not come back to work; and
- if the state administration body, responsible for labor inspection, determines that the court employee has been employed contrary to the provisions of this law.

Article 74

- 1) The decision for termination of the employment of the employee in the court service shall be passed by the president judge.
- 2) The decision for the termination of the employment shall be given to the employee in the court service in person, by rule, in the working premises of the court where the court employee is working, respectively at the dwelling address, respectively the address of residing, from where the court employee comes to work on daily basis.

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- 3) If the employee in the court service can not be reached at the dwelling address, respectively the address of residence or if he/she refuses to accept the decision, the decision will be announced at the information board in the court where he/she worked.
- 4) After the expiration of three working days, it shall be considered that the decision has been delivered.

Article 75

- 1) Against the decision for termination of the employment the employee in the court service is entitled to an appeal to the Council, within eight days from the day of receiving the decision.
- 2) The Council shall decide upon the appeal within 15 days from the day of reception of the appeal.
- 3) The appeal shall postpone the enforcement of the decision for termination of the employment until passing a final decision upon the appeal.

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VIII. PROTECTION OF THE RIGHTS OF THE COURT EMPLOYEES

Article 76

- 1) ~~The employees in the court service~~ to whom an employment right has been violated with the decision are entitled to an appeal to the Council, within 8 days from the day of receiving the decision, through the court where they are employed.
- 2) ~~The court is obligated within 5 days after the reception of the appeal together with the response to submit it to the Council.~~
- 3) The Council is obligated to decide upon the appeal within 15 days from the day of reception of the appeal in the Council.

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Article 77

- 1) ~~The employee in the court service~~ who is not satisfied with the final decision of the Council is entitled, within 15 days from the day of receiving the decision, to ask for a protection of his/her rights in front of a competent court.
- 2) ~~If the Council does not decide within the time frame stipulated in Article 76 paragraph 3, the appellant is entitled to initiate a dispute in front of a competent court within the time limit of the following 5 days.~~
- 3) ~~The employee in the court service~~ cannot ask for protection of his/her rights in front of a competent court, if previously has not asked for protection of the right in front of the Council, except for the right to monetary claim.

IX. REGISTER OF COURT EMPLOYEES

Article 78

- 1) The Court Service Council is maintaining a Register of Court Employees, as a unique data base.
- 2) The data that is entered in the Register present classified information with a degree of confidentiality according to the law.

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Article 79

- 1) The court is obligated to submit to the Administrative Office of the Court Budget Council, each data for a change that has occurred in the records of the court employee, within 15 days after the change has occurred.
- 2) The Court Service Council, is obligated to enter the data in the register within 15 days after they were submitted.
- 3) The Court Service Council, shall determine with sub-regulations, the form and content of the forms for registering the data on the court employees, as well as the manner of their usage.

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X. COURT POLICE

Article 80

- 1) The President of the Supreme Court of the Republic of Macedonia shall appoint, from the ranks of the court police members in the courts of the Republic of Macedonia, a commandant of the court police of the Republic of Macedonia.
- 2) The presidents of the appellate courts shall appoint, from among the ranks of the court police members in these courts, holding a university degree, a coordinator of the court police for the basic courts in the appellate region, employed in the basic courts in that, appellate region,

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Article 80 b

The Government of RM shall pass a Regulation for the titles, symbols for the titles and conditions to acquire the court police titles.

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Article 81

- 1) The Academy for training of judges and public prosecutors in cooperation with the commander of the court police shall pass and implement the Program, for Education and Training of the court police members.
- 2) The Program, from paragraph 1 of this Article shall be submitted to all the courts in the Republic of Macedonia.
- 3) The commander of the court police of a court shall manage and command during the education and training sessions of the court police members.

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Article 81 a

The Court Budget Council shall provide finances for the equipment and uniform, as well as for the continuous training of the court police.

Article 82

- 1) The supervision over the work of the court police in the courts in the Republic of Macedonia shall be performed by the president judge, the Ministry of Justice and the commandant of the court police in the Supreme Court of the Republic of Macedonia.
- 2) The coordinators of the court police in the appellate courts shall perform supervision over the work of the court police in the basic courts in the area of the appropriate appellate court.
- 3) The supervision over the implementation of the education and training of the court police in the courts of the Republic of Macedonia shall be performed by the president judge, the Ministry of Justice and the commandant of the court police of the Republic of Macedonia, as well as the coordinators of the court police in the appellate courts for the basic courts in the area of the appropriate appellate court.
- 4) If the existence of irregularities is determined, related to the work of the court police from the paragraphs 1, 2, and 3 of this Article, the persons that perform the supervision, shall propose measures and activities for removal of the determined irregularities.
- 5) The persons that perform the supervision are entitled to propose to the president judge the initiation of a disciplinary procedure for a court police member, in the case of which, the provisions from this Law pertaining to disciplinary responsibility shall be applied accordingly.
- 6) If the persons performing the supervision determine irregularities for which the president judge is responsible shall inform the Judicial Council of the Republic of Macedonia about this matter.

Article 84

The Minister of Justice, shall determine with sub-regulations, the percentages for salary increase up to 20% for each court separately, but not less than 10%.

XI. CASE FLOW MANAGEMENT

Article 87

- 1) The case flow management is an efficient processing of cases from the day of reception to the archiving of the case.

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The salary of the commandant of the court police, coordinator of the court police, commander of the court police, deputy commander of the court police and member of the court police consists of two components, as follows: ¶
<#>points for the education and¶
<#>points for the position.¶

¶
The level of education is valued in the following manner: ¶

<#>university education 200 points¶
<#>senior education 150 points¶
<#>high school education 100 points¶

¶
The position is valued in the following manner: ¶
<#>for the commandant of the court police¶
in the Supreme Court of the Republic of
Macedonia 296 points; ¶

<#>for the coordinator of the court police . . . 246
points;¶

<#>for the commander of the court police . . 231
points;¶

<#>for the deputy commander of the court
police . . . 201 points; and¶
<#>for member of the court police . . . 181
points.¶

¶
The value of the point is determined each year
with a decision from the Government of the
Republic of Macedonia. ¶

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The members of the court police can establish their
right to strike in the manner and condition which do
not disturb the regular operations. ¶

The organizer of the strike is responsible to
announce the strike to the Minister of Justice, the
President of the Supreme Court of RM and the
president judge of the appropriate court and to
submit the decision for beginning of the strike, as
well as the programme on the manner and range of
tasks of the court police which are necessary to be
performed during the strike, not later than seven days
before the start of the strike. ¶

¶

¶

¶

Article 86¶

During the organized strike of the members of the
court police, the security of the court must not be
disturbed, as well as the work of the court service (...)

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- 2) The manner and procedure for case flow management with the use of information technology shall be determined by law or sub-regulation passed by the Minister of Justice.
- 3) The Ministry of Justice performs supervision over the usage and the application of the information technology in the courts.

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XII. TRANSITIONAL AND FINAL PROVISIONS

Article 88

- 1) The sub-regulations from this Law shall be passed within 60 days from the day of entry into force of this Law.
- 2) The court employees employed in the court at the time of entry into force of these changes and amendments of the Law shall be assigned at the vacant (vacant and not filled out) positions, in accordance with their level of education, as stipulated in the Regulation for systematization of the working positions.

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Article 89

The Council of the Court Service, in the composition as stipulated in Article 7, shall be established within 15 days from the day of entry into force of the changes of this Law.

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Article 90

The acts for internal organization and systematization of the work positions in the courts shall be passed by the president judges, with previous consent from the Council, not later than 90 days before this Law commence operation.

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The leading civil servants: Secretary General of the Supreme Court of the Republic of Macedonia and the heads of sectors – secretaries of appellate and basic courts that have acquired the status of leading civil servant according to the Law on Civil Servants and fulfill the conditions stipulated in Articles 21 and 22 of this Law with the day of entry into force of this Law, according to the systematization act of the court where they are employed, shall be assigned to the position court administrator. ¶

Deleted: Article 92¶

The court employees that have the status of civil servants and which are employed at the appropriate positions for which they are competent and for which they fulfill the conditions according to this Law, shall be assigned as court employees according to the work positions determined with this Law, and the employees that do not fulfill the conditions determined with this Law shall be re-assigned to work positions which are appropriate to their level of education. ¶

Article 92

The Supreme Court of the Republic of Macedonia shall provide facilities for functioning of the Court Service Council.

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Article 93

The provisions from the Law on Labor Relations shall regulate all the issues which are not regulated with this Law.

Article 95

This Law shall enter into legal force on the eighth day after its publication in the
| “Official Gazette of the Republic of Macedonia”

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January 1st 2009