

Law of the Azerbaijan Republic

On Judicial-Legal Council

Chapter I. General Provisions

Article 1. Purpose of the Judicial-Legal Council

Judicial-Legal Council is the body, which, within its competence, ensures organization of the court system *and independence of judges* in Azerbaijan Republic; arranges selection of candidates who are not judges (hereafter candidates to the judicial post) to the vacant judicial posts; evaluates the activity of judges; decides on the issues of transfer of judges to different judicial post, their promotion, calling judges to disciplinary liability, as well as, other issues related to courts and judges, and implements self-governance functions of the judiciary.

Article 2. Legal foundation of the activity of the Judicial-Legal Council

Constitution of the Republic of Azerbaijan, international treaties to which it is a party, the present Law, Courts and Judges Act and other legislative acts and instruments of the Republic of Azerbaijan shall constitute the legal foundation of the activity of the Judicial-Legal Council.

Article 3. Basic principles of the activity of the Judicial-Legal Council

Independence, legality, collective decision-making, impartiality and objectivity are the principles of activity of the Judicial-Legal Council.

Article 4. The independence of the Judicial-Legal Council

4.1. The Judicial-Legal Council is the permanently functioning independent body and does not depend on legislative, executive and judicial authorities, local self-governments or legal and natural persons in organizational, financial and other matters.

4.2. The Judicial-Legal Council operates jointly with legislative, executive and judicial authorities, Bar Association of the Republic of Azerbaijan and scientific organizations.

Article 5. Financing of the Judicial-Legal Council and its attributes

5.1. Judicial-Legal Council shall be financed from the state budget. *The sum of operational expenses in annual funds allocated to finance the activity of the Judicial-Legal Council may not be reduced in comparison to the previous annual fund.*

5.2. In order to carry out the functions vested in it, the Judicial-Legal Council may be funded from other appropriate sources according to the legislation.

5.3. The Judicial-Legal Council shall have an independent balance; property from the public estate; seal bearing the image of the National Symbol of the Republic of Azerbaijan and its name, appropriate stamp, emblem, blanks, treasury and bank accounts.

Chapter II. Organization of the Judicial-Legal Council

Article 6. Composition of the Judicial-Legal Council

6.1. The Judicial-Legal Council shall be composed of 15 members.

6.2. Judicial-Legal Council shall be mainly composed of judges, representatives of executive and legislative bodies, prosecutor's office, as well as, bar association in the following manner:

6.2.1. head of the relevant executive body* of the Republic of Azerbaijan;

6.2.2. President of the Supreme Court of the Republic of Azerbaijan;

6.2.3. person appointed by the head of the relevant executive body* of the Republic of Azerbaijan;

6.2.4. person appointed by Milli Majlis of the Republic of Azerbaijan;

6.2.5. a judge appointed by the Constitutional Court of the Republic of Azerbaijan;

6.2.6. two judges of cassation instance court *selected* by the Supreme Court from among the candidates by the associations of judges;

~~6.2.7. judge of appeal instance court (Court of Appeal of the Republic of Azerbaijan) two judges of the Court of Appeal selected by the Judicial Council from among the candidates offered by the associations of judges;~~

~~6.2.8. judge of appeal instance court (Economic Court of the Republic of Azerbaijan) appointed by the Supreme Court from among the candidates offered by the associations of judges;~~

6.2.8. judge of the Supreme Court of Nakhchivan Autonomous Republic (NAR) *selected* by the NAR Supreme Court from among the candidates by the associations of judges;

6.2.9. two judges of the first instance courts, *selected by the Judicial Council* from among the candidates offered by the associations of judges;

6.2.10. person appointed by the head of the relevant executive body* of the Republic of Azerbaijan;

6.2.11. lawyer appointed by the Collegial Board of Bar Association of the Republic of Azerbaijan;

6.2.12. person appointed by the General Prosecutor's Office of the Republic of Azerbaijan;

6.3. Head of the relevant executive body of the Republic of Azerbaijan and the President of the Supreme Court of the Republic of Azerbaijan are *ex officio* members of the Judicial-Legal Council.

6.4. The persons appointed to the Judicial-Legal Council by the relevant executive body of the Republic of Azerbaijan, Milli Majlis of the Republic of Azerbaijan, the relevant executive body and the General Prosecutor's Office of the Republic of Azerbaijan shall have high law education and more than five years work experience.

6.5. Associations of judges shall offer at least two candidates to one vacancy in the Judicial-Legal Council. The list of candidates to the membership of the Judicial-Legal Council could be rejected only once by the person who *selects* them. Subsequently nominated persons shall be *selected* to the Judicial-Legal Council.

6.6 Term of office of the members of the Judicial-Legal Council is five years.

~~6.7. Except for persons who are ex officio the members of the Judicial-Legal~~

~~Council, the same person should not be appointed as a member of the Judicial-Legal Council more than twice.~~

Article 7. The requirements related to the members of the Judicial-Legal Council

Persons, who have double nationality, have obligations before the other countries, hold elected public position, have previous conviction, are engaged in business, commercial and other sort of payable activity except for scientific, pedagogical and art activity, as well as, clergy figures shall not be appointed to the Judicial-Legal Council.

Article 8. Maintenance of the members of the Judicial-Legal Council

8.1. Wages of the members of the Judicial-Legal Council at the places of their employment shall be reserved for the entire term of the service at the Council. The members who do not receive wages or are free-lance employees shall receive wages for the day that they sit in the Council sessions and be paid by the Judicial-Legal Council in the amount calculated on the basis of their average wage rate during the last two years.

8.2. Members of the Judicial-Legal Council shall receive extra wage for carrying out their authorities in the amount of twenty five per cent of the wage of the Supreme Court judges. Surplus shall be provided from the funds allocated from the state budget to the Council.

Article 9. The independence, immunity, and equality of the members of the Judicial-Legal Council

9.1. Members of the Judicial-Legal Council are independent and are bound by the Constitution and acts of the Republic of Azerbaijan. Members of the Judicial-Legal Council may not be called to account for the activity, voting and opinion expressed in the Council and they shall not be required to testify and provide information concerning thereof.

9.2. Members of the Judicial-Legal Council, who are not judges, shall enjoy the immunity emanating from the status of the judge. Criminal prosecution, following suspension of authorities due to above reason and restoration of authorities of the member of the Judicial-Legal Council shall be carried out in order provided by Article 101 of the Courts and Judges ACT of the Republic of Azerbaijan.

9.3. Members of the Judicial-Legal Council shall be equal in their rights in resolving all the issues pertaining to its functions.

9.4. Members of the Judicial-Legal Council shall possess official identification document confirming their status.

Article 10. Early termination of the office of the members of the Judicial-Legal Council

10.1. Office of the member of the Judicial-Legal Council shall be terminated before expiry only by a decision of that Council, on the initiative of the President of the Judicial-Legal Council or the authority who appointed (*selected*) him/her in the following cases:

10.1.1. if she/he applies for termination of his/her membership in the Judicial-Legal Council in written;

10.1.2. if the court issues a verdict of abrogation of the criminal prosecution against him/her without exculpatory grounds, or criminal conviction which becomes effective or decision on compulsory medical treatment;

10.1.3. if it is revealed that the member of the Council does not meet the requirements of Article 6.4 and Article 7 of this ACT;

10.1.4. if the judge who represent particular instance in the Judicial-Legal Council is transferred to another court instance;

10.1.5. if the court determines that s/he is disabled or has restricted disability;

10.1.6. in case of his/her death;

10.1.7. if he is acknowledged as dead or missing by the court;

10.1.8. *for a continuous period of more than six months in case of inability to perform duties in connection with the complete disablement;*

10.1.9. if she/he fails to participate at the sessions of the Judicial-Legal

Council three times consecutively or six times during a year without good reason;

10.1.10. in case if she/he fails to perform responsibilities specified in Article 27.2 of the present Act;

10.1.11. in case if she/he behaves in a way that compromises the quality as a member.

10.1.12. Authorities of the member of the Judicial-Legal Council may be abrogated also when he is dismissed from the membership.

10.2. New member of the Judicial-Legal Council to replace his/her predecessor, whose office term was terminated before expiration, shall be appointed (*selected*) for the remaining part of the duration of the original terms of reference according to the procedure set forth in Article 6 of this Act.

Chapter III. Foundation of the Activity of the Judicial-legal Council

Article 11. Functions of the Judicial-Legal Council

11.0. The Judicial-Legal Council carries out the following functions:

11.0.1. submits proposals on the structure of the courts to the relevant executive body* of the Republic of Azerbaijan (location, *territorial jurisdiction* and *total* number of judges);

11.0.2. arranges selection of candidates to the judicial posts;

11.0.3. evaluates the activity of judges, as well as, organization of work by the presidents of courts, deputy presidents of courts and presidents of the collegial boards of courts;

11.0.4. discusses the issues of transfer to another positions, dismissal and appointment, from among the appointed judges, of the presidents of the courts of the Republic of Azerbaijan, deputy presidents and presidents of the collegial board from among the elected judges, except for the President of the Supreme Court *and* NAR Supreme Court, ~~*serious-crime courts*~~;

11.0.4-1. discusses mission of judges with their consent, for up to 2 years to the Office of the Judicial-Legal Council, and, in case of appeal of the relevant executive authority – to the appropriate organization for

participation in training activities or checking the status of business organization in the courts of first instance and appeal in the spheres provided for the second part of Article 86 of the Law of Azerbaijan Republic "On Courts and Judges", and if necessary issue of extending the mission of the seconded judge with his consent for up to 2 years;

11.0.4-2. reinstate seconded judge at the former position on his own initiative or the initiative of the organization to which he was seconded;

11.04.-3. to interview person who was dismissed from his position as judge on his own request for working in administrative position in justice authorities or prosecution offices, expressed his wish to be reappointed as judge;

11.0.5. takes measures in order to raise the professional level of judges and preparation of candidates to the judicial posts;

11.0.6. supplies wages to the candidates for the vacant judicial posts sent to the preliminary training courses;

11.0.7. takes measures to ensure independence of judges and to prevent meddling in their activity;

11.0.8. takes measures to supply courts with the legal materials and information;

11.0.9. submits proposals on the supplying the courts with equipment and funds;

11.0.10. approves the code of ethics for the judges;

11.0.10-1. approves samples of judges certificates;

11.0.11. considers the issues of awarding, providing rewards and disciplinary liability of judges;

11.0.12. considers the motions for termination of the office of judges and institution of criminal prosecution of judges;

11.0.12-1. in the case provided for in the first part of Article 113 of the Law of Azerbaijan Republic "On Courts and Judges", terminates the authority of the judges; on the grounds provided for in paragraphs 1 and 3-5, the second part of Article 113 of the Law of Azerbaijan Republic "On Courts and Judges", prematurely terminate the powers of judges;

11.0.13. considers the applications and complaints, also against the decisions of the Judges Selection Committee;

11.0.14. carries out other functions provided by the legislation.

Article 12. Authorities of the Judicial-Legal Council

12.0. Judicial-Legal Council shall be vested with the following authorities in order to carry out its functions:

12.0.1. determine the order of conducting written and oral examination designed to select the candidates to the judicial posts, evaluation of the candidates according to the result of the long-term training and conducting of final interview;

12.0.2. recruit the staff of the Judicial-Legal Council;

12.0.3. approve the Charter of the Judge Selection Committee and form the Judge Selection Committee;

12.0.3-1. determine the number of judges in courts, incorporated to the judicial system of the Azerbaijan Republic within the limits of total number of judges;

12.0.4. make proposals to the relevant executive authority of the Azerbaijan Republic *on changing jobs, position promotions, extending the term of office of judges*, appointment of the presidents, deputy presidents and chairmen of the judicial boards of the courts of the Republic of Azerbaijan from among appointed judges, except the chairmen of the Supreme Court of the Republic of Azerbaijan *and the Supreme Court of the Nakhchivan Autonomous Republic* ~~and serious crimes courts~~, and removal from the office and transfer to another position;

12.0.4-1. second the judges with their consent for up to 2 years to the Office of the Judicial-Legal Council, and, in case of appeal of the relevant executive authority – to the appropriate organization for participation in training activities or checking the status of business organization in the courts of first instance and appeal in the spheres provided for the second part of Article 86 of the Law of Azerbaijan Republic "On Courts and Judges", and if necessary with the consent of the seconded judge extend his mission for up to 2 years;

12.0.4-2. to discuss on the initiative of the seconded judge or organization to which he is seconded, the question of his former position reinstate;

12.0.5. proposes relevant executive body of the Azerbaijan Republic conferring awards on judges;

12.0.6. rewards judges;

12.0.6-1. award with diplomas and honorary badge the country citizens and representatives of the state and other structures of Republic of Azerbaijan and foreign countries, as well as the international organizations for achievements and efficient cooperation in the sphere of the judiciary development;

12.0.7. call judges to disciplinary liability;

12.0.8. deliberate upon termination of the office of the judges and submit proposals to this effect to the relevant executive body of the Republic of Azerbaijan;

12.0.8-1. discuss the issues of termination of office of the judges in the case provided for by the first part of Article 113 of the Law of Azerbaijan Republic "On Courts and Judges", the early termination of office of the judges on the grounds provided for in paragraphs 1 and 3-5, the second part of Article 113 of the Law of Azerbaijan Republic "On Courts and Judges";

12.0.9. endorse institution of criminal prosecution of judges and temporarily suspend them from the office;

~~12.0.10. set up special medical commission in order to determine the incapability of the judge for health reasons for more than six months;~~

12.0.11. receive documents and information from courts, public institutions and private persons related to the issues considered by the Judicial-Legal Council;

12.0.12. engage in their activity the employees, specialists and experts of the public organizations, scientific institutions, organs;

12.0.13. develop statutory instruments in order to implement and regulate functions vested in the Judicial-Legal Council;

12.0.14. pass appropriate decisions on the issues considered by the Judicial-Legal Council;

12.0.15. supervise how its decisions are implemented;

12.0.16. analyze activity of judges and organization of courts; converse with candidates nominated by the Judges Selection Committee;

12.0.17. hear reports of the Judge Selection Committee regarding activity of the Committee

12.0.18. submit proposals regarding improvement of legislation related to courts and judges;

12.0.19. arrange specialized courses, different seminars and training in *educational* institutions in order to raise the professional level of judges

12.0.20. arrange long-term training for candidates to the vacant judicial posts in the *educational* institutions;

12.0.21. make a suggestions to the chairmen of the judges of the first instance courts on consideration of the specialization of particular judges when assigning the cases to the judges;

12.0.22. establish international relations in connection with its activity, exchange experience in the field of court practice;

12.0.23. attract funds from local and foreign organizations and receive grants in order to promote functions of the Judicial Legal Council;

12.0.24. cooperate with non-governmental organizations and mass media in order to inform the public about the court activity;

12.0.25. propose regarding improvement of the work conditions and maintaining of the judges and court staff;

12.0.26-1. to give comments on the proposal of relevant executive body on finance costs for the provision of courts of first instance

12.0.27. exercise other authorities provided by legislation.

Article 13. Evaluation of the work of the judges

13.1. The Judicial-Legal Council evaluates the work of the judges *at least every five years.*

13.2. Evaluation of the work of judges is carried out in order to improve the administration of justice, organize training of the judges adequately, as well as, to check the aptitude of judges to proceed with their judicial duties.

13.3. Activities of judges are evaluated on the basis of opinion concerning the way they perform their duties by the President of the Supreme Court of the Republic of Azerbaijan, presidents of the courts of appeal, the NAR Supreme Court and the presidents of the courts in the jurisdiction of which these judges are appointed. Also information collected by the relevant executive body in the course of implementation of its functions provided by the legislation and information submitted to the Judicial-Legal Council is used during evaluation. The information at the disposal of the members of the Judicial-Legal Council also contributes to the setting up of the said evaluation.

13.4. Judicial-Legal Council determines the procedure and methodology of evaluation of the work of judges.

Article 14. Judges Selection Committee

14.1. Judicial-Legal Council shall form the Judges Selection Committee vested with selection of candidates for the vacant judicial posts and composed of 11 members, including judges, Council staff, representatives of the relevant executive body of the Republic of Azerbaijan and the Prosecutor's Office as well as, defense lawyers and act academicians:

14.1.1. two judges of the Supreme Court of the Republic of Azerbaijan;

14.1.2 three judges of the Court of Appeal;

~~*14.1.3. judge of the Economic Court of the Republic of Azerbaijan;*~~

14.1.3. NAR Supreme Court judge;

14.1.4. member of staff of the Judicial-Legal Council;

14.1.5. representative of the relevant executive body of the Republic of Azerbaijan;

14.1.6. representative of the Prosecutor's Office of the Republic of Azerbaijan;

14.1.7. member of the Bar of the Republic of the Republic of Azerbaijan;

14.1.8. law academician.

14.2. Members of the Judicial-Legal Council can not be simultaneously members of the Judges Selection Committee.

14.3. Judges Selection Committee shall collect the application documents of the candidates for the vacant judicial posts, and organize written test and oral exam, in a transparent manner, in order to examine their aptitude and worthiness of occupying judicial post, engage judicial candidates in long-term training, determines their professional aptitude by means of interview.

14.4. Judges Selection Committee is funded from the state budget. Maintenance for the members of the Judicial-Legal Council provided by Article 8 of this Law shall also be provided to the members of the Judges Selection Committee.

14.5. Complaint against the *decisions* of the Judges Selection Committee may be made to the Judicial Legal Council *within 10 days from the day of submission of such decision*. The complaint shall be considered within *1 month from the date of receipt at the meeting of the Judicial Council*, and the decision of the Committee shall remain in force, canceled or amended.

Article 15. Determination of the Service Venue of the Nominee for The Judicial Post

15.1. Judges Selection Committee shall submit its proposals to the Judicial-Legal Council regarding every candidate who has successfully passed the preliminary training course and the final interview. The proposals shall include the following:

15.1.1. first name, patronymic name and family name;

15.1.2. brief CV and characterizing information;

15.1.3. results of the preliminary training and final interview;

15.1.4. its opinion about professional aptitude, including specialization.

15.2. Judicial-Legal Council shall consider the proposal of the Judges Selection Committee on the nominee for the judicial post, determine whether legislation and Charter of the Judge Selection Committee has been violated or not in the course of selection of the nominee to the judicial post and proposes appointment of the candidates who have gained minimum or higher marks, it has prescribed, to a vacant judicial post.

Article 16. Motion for appointment of the nominee to a judicial post

16.0. Judicial-Legal Council shall make motions for appointment of the candidates to the vacant judicial posts to the relevant executive body of the

Republic of Azerbaijan. The following information shall be included to the motion for appointment of the nominee to the vacant judicial post:

- 16.0.1. first name, patronymic name and family name;
- 16.0.2. brief CV and characterizing information;
- 16.0.3. results of the preliminary training and of final interview;
- 16.0.4. information about the professional aptitude, including specialization;
- 16.0.5. proposed judicial post.

Article 17. Decisions of the Judicial-Legal Council

17.1. Judicial-Legal Council shall issue decisions on the issues that it considers.

17.2. Judicial-Legal Council passes decisions by way of open voting and subject simple majority of the votes of those Council members present, except for the cases prescribed for in this Act. The member presiding at the sessions of the Council shall be the last one to vote.

17.3. While passing decision within the framework of disciplinary proceedings, except the President of the Supreme Court of the Republic of Azerbaijan and judge-rapporteur, only judge members may vote.

17.4. Only the judge members of the Judicial-Legal Council participate in voting on endorsing or dismissing the motion of the Prosecutor General of the Republic of Azerbaijan regarding criminal prosecution of a judge. Decision of the Judicial-Legal Council on this subject is final.

17.5. Shall the member of the Judicial-Legal Council have a special opinion; it shall be reflected in the attachment to the decision.

17.6. Decisions of the Judicial-Legal Council reflecting the results of the disciplinary proceedings shall be published within one month that they take effect.

Article 18. Appeals against decisions of the Judicial-Legal Council

18.1. Appeals against decisions of the Judicial-Legal Council on the judges or judicial candidates, including the ones reflecting the results of the disciplinary proceedings (excluding decisions provided by Article 17.4 of this ACT) shall

be lodged with the Plenary Board of the Supreme Court *within twenty days since the day of submitting these decisions to the judge or candidates to the vacant judicial posts* and shall concern only legal matter of proper application of legislation.

18.2. Plenary Board of the Supreme Court shall consider the appeal against decisions of the Council within *three months*, issue a decision to the effect of either letting stand, or abrogating or amending, and presents its decision to the President of the Judicial-legal Council.

18.3. Decisions of the Plenary Board of the Supreme Court on the appeal against decisions of the Judicial-Legal Council shall be final in their effect.

18.4. Plenary Board of the Supreme Council shall consider appeals against the decisions of the Judicial-Legal Council according to the general work practice.

Chapter IV. Disciplinary proceedings against judges

Article 19. Disciplinary liability of judges

19.1. Judges shall be called to disciplinary liability only subject to the existence of the grounds specified in the Courts and Judges Act of the Republic of Azerbaijan.

19.2. Subject to Courts and Judges Act of the Republic of Azerbaijan, only the Judicial-Legal Council shall be entitled to commence disciplinary proceedings against judges on the basis of the motions of the persons entitled by the same Act.

19.3. Subject to Courts and Judges Act of the Republic of Azerbaijan, the entitled persons shall be bound to submit motions for institution of disciplinary proceedings to the Judicial-Legal Council if there appear the reasons specified in the same Act.

19.4. Judicial-Legal Council shall consider the motion for institution of disciplinary proceedings within *three month* and passes decision either on institution of the disciplinary proceedings or not-upholding of the motion for institution of the disciplinary proceedings.

Article 20. Rights of the judges who are subject disciplinary proceedings

20.0. Judges who are subject to the disciplinary proceedings shall be entitled to:

20.0.1. get familiarized with the materials of the disciplinary proceedings;

20.0.2. be defended by the judge or member of Bar Association of the Republic of Azerbaijan of his/her choice;

20.0.3. be informed of the time and venue of hearing on disciplinary proceedings;

20.0.4. extend objection to the Member of the Judicial-Legal Council on the grounds mentioned in Article 28 of this Act;

20.0.5. participate at the hearings on the disciplinary proceedings and lodge his/her explanations, applications and documents;

20.0.6. receive a copy of decision on the disciplinary proceedings;

20.0.7. appeal against the decision to call him/her to the disciplinary liability in the specified way.

Article 21. Disciplinary Proceedings

21.1. Within *three months* after institution of disciplinary proceedings, the Judicial-Legal Council shall examine the case, as a rule, with the participation of the judge and issue an appropriate decision. The Judicial Legal Council may extend this term if the judge is not able to appear before it due to excusing reasons *or if there is the need for additional examination of proceedings*.

21.2. President of the Judicial-Legal Council shall appoint a rapporteur from among the judge members of the Council on the issue, which served as a ground for commencement of the disciplinary proceedings. The rapporteur examines the incoming materials with the aid of the members of the Staff of the Judicial-Legal Council and submits the report on the issue and proposals regarding the person to be invited to the session of the Judicial-Legal Council to the President of the Council. The President appoints a session of the Council on the issue.

21.3. Members of the Judicial-Legal Council and the invited persons shall be informed about the time and venue of session of the Council, at least, three days in advance. During this period the members of the Council shall be familiarized with the Agenda of the session and materials to be examined.

21.4. The judge, who is to have his/her disciplinary liability case considered,

shall be informed about the time and venue of the session of the Judicial-Legal Council five days before the session at the latest. If this judge has not been informed about the date of the session in an appropriate way or if s/he has had a valid reason to miss the session of the Judicial-Legal Council, the hearing shall be adjourned. If the judge has been informed about the date of the session and got familiarized with the materials and has not had a valid reason to miss the session, the Council shall hear the case without his presence. The official record shall be made about refusal to get familiarized with the documents or attend the session.

21.5. The session of the Judicial-Legal Council on the disciplinary shall be considered valid if five members of the Council who having voting power are present. The President opens the session on the appointed date, announces the agenda, checks the attendance, inquires about the reasons for non-attendance, discusses the possibility of considering the materials, and determines the members of the Council have objections.

21.6. Hearing of the Judicial-Legal Council on the disciplinary proceedings shall commence with the report of the rapporteur who has examined the materials pertaining to the issue considered. Further, the judge whose case is considered and invited persons are heard, motions are considered, appropriate documents and materials are studied, inquiry is made, and the results are discussed, which lead to passing of one of the decisions provided by Article 112 of the Courts and Judges ACT.

21.7. Judicial-Legal Council shall base its decision on the disciplinary proceedings with the facts, significant issues, character, gravity degree and consequences of the actions committed by the judge

Article 22. Termination of the disciplinary proceedings

22.1. Judicial-Legal Council terminates disciplinary proceedings in the following cases:

22.1.1. if no violations by judge has been detected;

22.1.2. if the disciplinary proceedings regarding a judge has not been instituted till one year after the violation has been detected or three years after the violation has been committed.

22.2. *Disciplinary proceeding may be terminated provided that it is restricted by discussion taking into consideration the case circumstances and offence extent.*

22.3. *Upon the termination of office of the judge, the administrative proceedings against him are also terminated.*

Article 23. Decisions of the Judicial-Legal Council on the disciplinary proceedings

23.1. Judicial-Legal Council shall indicate the following information in the written decision, which it passes:

23.1.1. name of the council and name of those members present;

23.1.2. time and venue of the decision;

23.1.3. first name, family name, patronymic name and post of the judge in whose regard the disciplinary proceedings is carried out;

23.1.4. name of the person who submitted motion for institution of disciplinary proceedings;

23.1.5. essence of the considered issue;

23.1.6. explanation of the judge in whose regard the disciplinary proceedings has been instituted;

23.1.7. circumstances detected and conclusions made by the Judicial-Legal Council;

23.1.8. content of the decision;

23.1.9. order and expiry term for appeal.

23.2. Judicial-Legal Council passes its decision by simple majority of its judge members. Voting on the disciplinary liability shall be carried out without participation of the judge in whose regards the administrative proceedings are undertaken, person who applied for or submitted motion for institution of the disciplinary proceeding and invited persons. If votes end in a draw, the judge shall not be called to account. The resolution part of the decision on disciplinary proceedings shall be announced immediately. The substantiated decision shall be prepared within ten days.

23.3. After preparation, within *three days*, the decision shall be presented to the judge whose disciplinary liability issue has been considered, the person who applied or submitted motion for institution of disciplinary proceedings.

23.4. The judge whose disciplinary liability issue has been considered, the person who applied for the institution of the disciplinary proceedings shall

be entitled to acquaint with the minutes of the hearing after the issue.

Article 24. Appeals against the decisions on administrative proceedings

The judge called to disciplinary liability shall be entitled to appeal against the decision on the disciplinary proceedings to the Plenary Board of the Supreme Court of the Republic of Azerbaijan according to Article 18 of this Act.

Chapter V. Organization of the work of the Judicial-Legal Council

Article 25. Sessions of the Judicial-Legal Council

25.1. Judicial-Legal Council considers the issues that have been attributed to its functions in sessions. The President of the Council presides in its sessions. Member of the Staff of the Judicial-Legal Council shall carry out the functions of the secretary at its sessions. As a rule, sessions are held, at least, every quarter.

25.2. Information about time, venue and issues to be considered at the session shall be communicated to the members of the Council three days before the session at the latest. Apart from the members of the Judicial-Legal Council other persons may be invited to the sessions.

25.3. Subject to the exceptions contained in this ACT, the session of the Judicial-Legal Council shall be considered authorized, if eight of its members are present.

25.4. Minutes of the session shall be drawn by the members of the Staff of the Judicial-Legal Council within *ten days*. The minutes shall indicate the names of the members and invited persons present at the session, agenda, content of discussions, issues on which voting has been made, passed decisions and results of voting. President and secretary of the Council shall sign the minutes.

Article 26. President of the Judicial-Legal Council

26.1. Members of the Judicial-Legal Council shall elect the President of the Council from among themselves, with simple majority of votes. The term of the office of the President shall be *five years* .

26.2. President of the Judicial-Legal shall:

26.2.1. represent the Judicial-Legal Council;

- 26.2.2. arrange the work of the Judicial-Legal Council;
- 26.2.3. summons the sessions of the Judicial-Legal Council;
- 26.2.4. presides at the Sessions of the Judicial-Legal Council;
- 26.2.5. raises the issues attributed to functions of the Judicial-Legal Council at the sessions of the Council;
- 26.2.6. handles the funds assigned from the state budget for the operation of the Judicial-Legal Council;
- 26.2.7. manages the Staff of the Judicial-Legal Council;
- 26.2.8. appoints to and dismisses from the position, gives bonuses and sorts out issues of disciplinary liability of Staff members;
- 26.2.9. carries out other functions vested in him by the legislation of the Republic of Azerbaijan.

26.3. Shall the President of the Council become temporarily incapable to carry out his functions; members of the Judicial-Legal Council will select acting president from among themselves. Acting president shall carry out functions of the President of the Judicial-Legal Council in full terms.

26.4. The President may delegate his/her functions provided by Articles 26.2.6 to 26.2.8 to one of the members of the Judicial-Legal Council.

Article 27. Rights and duties of the members of the Judicial-Legal Council

27.1. Members of the Judicial-Legal Council shall enjoy the following rights:

27.1.1. participate at the sessions of the Judicial-Legal Council and express their opinion on the conducting of the session;

27.1.2. participate at resolving of the issues attributed to the functions of the Judicial-Legal Council;

27.1.3. ask questions to the rapporteur and other persons participating at the Session of the Judicial-Legal Council;

27.1.4. demand any information and documents relevant to the subject of the forthcoming session from legislative, executive and judicial bodies, local administration, and legal and physical persons;

27.1.5. get familiarized with the appeals, motions and other materials submitted to the Session of the Judicial-Legal Council;

27.1.6. express opinion on the decision to be taken by the Judicial-Legal Council;

27.1.7. provide special opinion in case if they do not agree with the decision of the Judicial-Legal Council fully or partially;

27.1.8. propose consideration of issues relevant to the functions of the Judicial-Legal Council at the sessions;

27.1.9. get familiarized with the decisions, minutes and other documents of the Judicial-Legal Council;

27.1.10. carry out other functions provided specified in the legislation of the Republic of Azerbaijan.

27.2. In the course of their activity, members of the Judicial-Legal Council:

27.2.1. shall be bound by the Constitution of the Republic of Azerbaijan, this Act, Courts and Judges Act of the Republic of Azerbaijan and other legislative acts and instruments of the Republic of Azerbaijan;

27.2.2. shall take an impartial stand, based on the law and justice, on the issues considered at the sessions of the Judicial-Legal Council;

27.2.3. shall not skip the sessions of the Judicial-Legal Council without good reason;

27.2.4. shall participate in the voting at the session of the Judicial-Legal Council or submit his/her written opinion;

27.2.5. shall not act or speak publicly in a way that may harm the reputation of the member of the Judicial-Legal Council;

27.2.6. shall not express his/her opinion on the issue considered by the Judicial-Legal Council until the decision on it is passed;

27.2.7. Shall not violate the requirements contained in Article 7 of this Act.

Article 28. Conflict of Interests

28.1. Any member of the Council who considers that the issues of a case may interfere with his/her personal interests or may allow suspicions regarding his/her impartiality, must inform the Council and will ask the latter to be authorized to refrain from participating in the session.

28.2. The person who is subject of consideration may object to the participation of the member of the Judicial-Legal Council, on the grounds specified in Article 28.1. Objection may be made either orally or in written. Objection shall be substantiated.

28.3. Objection shall be considered at the session of the Judicial-Legal Council without participation of the concerned member. Decision on the objection shall be passed by simple majority voting of those members present.

Article 29. Staff of the Judicial-Legal Council

29.1. In order to resolve organizational matters related to the preparation of the sessions of the Judicial-Legal Council, to draw the minutes of the sessions of the Council, as well as to resolve other issues related to the functions of the Judicial-Legal Council, Staff of the Judicial-Legal Council shall be established.

29.2. Status of the Staff of the Judicial-Legal Council shall be equated to the status of the Staff of the Supreme Court of the Republic of Azerbaijan. The Staff shall operate according to the Regulations approved by the Judicial-Legal Council. Members of the Council are public servants. Structure and number of members of the staff shall be determined within the limits of funds allocated from the State Budget to the Judicial-Legal Council.

Ilham ALIYEV

President of the Republic of Azerbaijan

Baku city, December 28, 2004

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