

# Judiciary System Act

Promulgated, SG No. 64/7.08.2007, amended, SG No. 69/5.08.2008, amended and supplemented, SG No. 109/23.12.2008, supplemented, SG No. 25/3.04.2009, effective 3.04.2009, amended and supplemented, SG No. 33/30.04.2009, SG No. 42/5.06.2009, SG No. 102/22.12.2009, effective 22.12.2009, amended and supplemented, SG No. 103/29.12.2009, effective 29.12.2009, supplemented, SG No. 59/31.07.2010, effective 1.01.2011, amended and supplemented, SG No. 1/4.01.2011, effective as of 4.01.2011, amended, SG No. 23/22.03.2011, effective 22.03.2011, amended and supplemented, SG No. 32/19.04.2011, effective 19.04.2011, SG No. 45/14.06.2011, effective 14.06.2011, supplemented, SG No. 81/18.10.2011, amended and supplemented, SG No. 82/21.10.2011, effective 1.01.2012, amended with Judgment No.10 of the Constitutional Court of the Republic of Bulgaria - SG No. 93/25.11.2011

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\*Note: An update of the English text of this Act is being prepared

following the amendments in SG No. 20/9.03.2012

Text in Bulgarian: Закон за съдебната власт

## **Chapter one**

### **GENERAL PROVISIONS**

#### **Article 1**

This Act shall set forth the structure and operational principles of judicial system bodies, the interaction among them, as well as that among judicial system bodies and the legislative and executive ones.

#### **Article 2**

Judicial system bodies shall be guided by the Constitution and the principles herein set forth.

#### **Article 3**

In adopting their acts judges, prosecutors and investigating magistrates shall be based on the law and the evidence gathered in the case.

#### **Article 4**

Judicial system bodies shall impartially discharge their functions.

#### **Article 5**

(1) Citizens and legal entities shall be entitled to obtain information about the work of the Judiciary.

(2) Judicial system bodies shall be held to ensure openness, accessibility and transparency in their actions in pursuance hereof and in pursuance of the procedural laws.

(3) To the purpose of affording full protection, in diverse situations as required, of the rights of citizens and legal entities and to the purpose of implementing the criminal policy of the state, judicial system bodies shall interact with legislative and executive bodies.

#### **Article 6**

Judges, prosecutors and investigating magistrates shall be politically neutral in carrying out their business.

#### **Article 7**

(1) Everyone shall be entitled to a fair and open trial within reasonable time before an independent and impartial court.

(2) Citizens and legal entities shall be entitled to judicial protection that shall not be denied to them.

(3) Subject to the terms and procedure specified by law citizens may obtain legal aid, which shall be financed by the state.

#### **Article 8**

(1) Judicial system bodies shall apply the laws with precision and uniformity in respect to all persons and cases to which such laws are relevant.

(2) No limitation of rights or any privileges based on race, nationality, ethnicity, sex, origin, religion, education, convictions, political affiliation, personal or social status or patrimony shall be allowed in the discharge of functions of the Judiciary and in recruitment for the positions at judicial system bodies.

#### **Article 9**

(1) Cases and files shall be distributed inside judicial bodies on the basis of the random selection principle through electronic assignment following the sequence of their intake.

(2) (Supplemented, SG No. 109/2008, amended, SG No. 1/2011, effective as of 4.01.2011) The random selection principle for the distribution of cases in courts shall apply at the level of the

colleges or of the divisions and in prosecution offices and the National Investigation Services - at the level of departments.

#### **Article 10**

(1) Judicial proceedings in civil and criminal matters shall be conducted before three instances, i.e. the first, the appellate and the cassation ones, unless otherwise provided for by law.

(2) Judicial proceedings in administrative cases shall be conducted before two instances, i.e. the first and the cassation ones.

(3) Judicial acts that have entered into force shall only be repealed in cases provided for by law.

#### **Article 11**

(1) A higher-standing instance shall only control the acts of a lower-standing one in the events and in pursuance of the procedure provided for by law.

(2) One judge may not take part in examining the same case in different judicial instances.

#### **Article 12**

(1) Judicial system bodies shall be obligated to examine and, in accordance with the law, to resolve any request filed with them.

(2) The time limits specified by procedural laws in respect to the discharge of powers attributed to judges, prosecutors and investigating magistrates shall be mandatory for them, but shall not affect the rights of the parties at trial.

#### **Article 13**

Proceedings before judicial system bodies shall be conducted in Bulgarian.

#### **Article 14**

(1) Records of proceedings shall be drafted in Bulgarian.

(2) In cases where certain words or expressions in a foreign language have particular relevance to a case, their entry on the record may be authorised.

#### **Article 15**

Where a court has judged that a law stands in contradiction to the Constitution of the Republic of Bulgaria, it shall notify the Supreme Court of Cassation or the Supreme Administrative Court, while prosecutors and investigating magistrates shall notify the Prosecutor General.

## **Chapter two**

# **SUPREME JUDICIAL COUNCIL**

### **Section I**

## **Legal status and composition of the Supreme Judicial Council**

#### **Article 16**

(1) The Supreme Judicial Council shall be a permanent body representing the Judiciary and securing its independence. It shall set the composition and work organisation of the Judiciary and shall manage its business without interfering with the independence of the bodies thereof.

(2) The Supreme Judicial Council shall be a legal entity seated in Sofia. It shall be represented by one of its elected members, designated by resolution of the Supreme Judicial Council.

(3) The Supreme Judicial Council shall have a round stamp bearing an image of the coat of arms of the Republic of Bulgaria and the words "Republic of Bulgaria. Supreme Judicial Council".

#### **Article 17**

(1) (New, SG No. 1/4.01.2011, effective as of 4.01.2011) Lawyers with high professional and moral characteristics with at least 15 years of legal length of service shall be elected to the Supreme Judicial Council.

(2) (Renumbered from Paragraph 1, supplemented SG No. 1/2011, effective as of 4.01.2011) The National Assembly shall elect eleven members of the Supreme Judicial Council among judges, prosecutors, investigating magistrates, full professors in legal science, attorneys at law or other lawyers.

(2) (Renumbered from Paragraph 2, supplemented SG No. 1/2011, effective as of 4.01.2011) Judicial system bodies shall elect eleven members of the Supreme Judicial Council out of their own composition, the judges electing six, the prosecutors - four and the investigating magistrates - one of these.

#### **Article 18**

(1) An elected member of the Supreme Judicial Council may not:

1. be a member of the National Assembly, a mayor or municipal councillor,

2. hold a position with state or municipal bodies,

3. (Supplemented, SG No. 33/2009) conduct trade or be a partner, manager or sit on supervisory, management boards or boards of directors or in control bodies of commercial companies, cooperatives or non-profit legal entities that carry out profitable business, with the exception of those of professional associations of judges, prosecutors and investigating magistrates,

4. (Supplemented, SG No. 33/2009) be remunerated for business performed under a contract or while in a civil service relationship with a state or public organisation, a commercial company, cooperative, non-profit legal entity, a natural person or sole trader, with the exception of research and teaching or the exercise of copyright, as well as for participation in international projects, including ones funded by the European Union;

5. exercise a liberal profession or any other remunerated professional activity,

6. be a member of political parties or coalitions, of organisations with a political goal, carry out political activity and be a member of organisations or conduct business interfering with his independence,

7. be a member of trade union organisations outside the Judiciary,

8. have been convicted of a serious criminal offence, notwithstanding any subsequent rehabilitation or have been discharged of criminal liability for a deliberate offence,

9. be a spouse, a relative of direct, or of collateral lineage to the fourth degree, or by marriage - to the third degree inclusive, or living together as partners with, another member of the Supreme Judicial Council, with an administrative head of a judicial system body or with the Minister of Justice.

10. (New, SG No. 103/2009, effective 29.12.2009) an elected member of the Supreme Judicial Council who has been relieved from office on disciplinary grounds.

(2) An elected member shall be relieved from office by the Supreme Judicial Council where he fails to vacate office or terminate his business under para 1 within a month of being elected.

## **Article 19**

(1) (Previous Article 1, SG No. 1/2011, effective as of 4.01.2011) The National Assembly and the judicial system bodies shall elect members of the Supreme Judicial Council within up to one month prior to the expiry of the term of office of elected members.

(2) (New, SG No. 1/4.01.2011, effective as of 4.01.2011) Nominations of candidates for members of the Supreme Judicial Council who are elected by the National Assembly shall be made by Members of Parliament up to one month before conducting the election. The nominations shall be published on the web site of the National Assembly together with a short CV of the candidates.

(3) (New, SG No. 1/4.01.2011, effective as of 4.01.2011) Nominations of candidates for members of the Supreme Judicial Council who are elected from the quota of the judiciary shall be made up to one month before conducting the election. The nominations shall be made by the assemblies under article 23, paragraphs 1-3 and shall be sent to the Supreme Judicial Council which shall publicise them on its web site together with a short CV of the candidates.

## **Article 20**

(1) The election of a Supreme Judicial Council member from the quota of the judges and prosecutors shall take place on the occasion of separate delegate assemblies of the judges and the prosecutors at a representation ratio of one delegate per 10 people. In case less than five people remain unrepresented no other delegate shall be elected.

(2) The election of a Supreme Judicial Council member from the quota of investigating magistrates shall take place on the occasion of a general assembly, in which all investigating magistrates in the Republic of Bulgaria shall take part.

## **Article 21**

(1) The Supreme Court of Cassation, the Supreme Administrative Court, the Supreme Prosecution Office of Cassation, the Supreme Administrative Prosecution Office, the appellate courts, the appellate prosecution offices and the administrative courts shall elect delegates on the occasion of separate assemblies.

(2) The judges and prosecutors in the area of the regional court concerned shall elect delegates on the occasion of separate assemblies.

(3) Judges at the military courts shall elect delegates on the occasion of a general assembly of all military courts.

(4) Prosecutors and investigating magistrates at the military prosecution offices shall elect delegates on the occasion of a general assembly of all military prosecutors and military investigating magistrates.

## **Article 22**

(1) An assembly for the election of delegates shall be convoked by written invitation of the head of the respective judicial system body or at the request of one-fifth of Supreme Judicial Council members, within up to two months prior to the expiry of the term of office of the elected members of the Supreme Judicial Council. The invitation convoking the assembly shall state the date, venue and time thereof.

(2) Where the assembly has not been convoked by the persons under para 1 within 7 days of the expiry of the term under para 1, the Minister of Justice shall specify the date, venue and time thereof.

(3) The assembly for the election of delegates shall take place where more than half of the persons entitled to take part therein are present. In the absence of quorum, the assembly shall take place an hour later than stated and it shall be considered valid where one-third of those entitled to take part in it are present.

(4) Delegates shall be elected by secret ballot with a majority of more than half of those present. Following the election, the record of proceedings containing the resolution on the election of delegates shall be immediately forwarded to the Supreme Judicial Council who shall enter the elected persons on the list of participants in the general delegate assembly.

### **Article 23**

(1) The general delegate assembly of the judges shall be jointly convoked by the Chairperson of the Supreme Court of Cassation and by the Chairperson of the Supreme Administrative Court.

(2) The general delegate assembly of the prosecutors shall be convoked by the Prosecutor General.

(3) The general assembly of the investigating magistrates shall be convoked by the Director of the National Investigation Service.

(4) The assemblies under paras 1 and 2 shall be convoked within 14 days of the respective assemblies for the election of delegates taking place.

(5) The assemblies under paras 1 - 3 shall take place where two-thirds of the elected delegates or of all investigating magistrates are present thereat.

### **Article 24**

(1) The general delegate assemblies shall elect members of the Supreme Judicial Council by secret ballot and a majority of more than half of those present.

(2) Where one or more candidates have failed gathering the required majority in the first round of voting, a second round of voting shall take place. Where one or more candidates have failed gathering the required majority in such repeated voting, those who have obtained the largest number of votes shall be considered elected.

### **Article 25**

(1) The administration of the Supreme Judicial Council shall take care of the organisation and technical arrangements for the assemblies.

(2) Expenses for the assemblies shall be covered from the Supreme Judicial Council budget.

### **Article 26**

(1) The legality of election of a Supreme Judicial Council member elected by judicial system bodies may be challenged before the Supreme Administrative Court through appeal signed by one-fifth of the delegates or of the members of the general assembly or by a candidate having a legal interest to act.

(2) The appeal shall be submitted within three days of the announcement of election results.

(3) The Supreme Administrative Court sitting in a five-member panel shall rule by judgement within 7 days of receipt of the appeal. This judgement shall be final.

(4) The Supreme Judicial Council shall schedule a new election within up to one month of the entry into force of the judgement, declaring the election illegal.

### **Article 26a**

(New, SG No. 1/4.01.2011, effective as of 4.01.2011, declared unconstitutional with Judgment No.10 by the Constitutional Court of the Republic of Bulgaria, SG No. 93/2011)

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(1) The members of the Supreme Judicial Council shall take the appropriate action to obtain access to classified information.

(2) A member of the Supreme Judicial Council who has failed to obtain access clearance may not participate in meetings when materials and documents are considered that contain classified information and shall not acquaint himself/herself with them.

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### **Article 27**

(1) An elected member of the Supreme Judicial Council shall be relieved from office prior to the expiry of his term on grounds of Article 130, para 8 of the Constitution of the Republic of Bulgaria, as well as in the event of established incompatibility due to positions or business under Article 18, para 1.

(2) In cases under Article 130, para 8, item 1 of the Constitution of the Republic of Bulgaria, the Supreme Judicial Council shall announce the resignation of an elected member at its first session after the submission thereof.

(3) (New, SG No. 103/2009, effective 29.12.2009) The terms of office of an elected member of the Supreme Judicial Council may not be terminated early by virtue of a resignation submitted on the grounds of Article 130(8)(1) of the Constitution of the Republic of Bulgaria if disciplinary proceedings have been brought against this member for the purpose of effecting a disciplinary dismissal from office under Article 308(3), until the completion of such proceedings.

(4) (Renumbered from Paragraph 3, SG No. 103/2009, effective 29.12.2009) The procedure



for early relief from office shall commence at the request of one-fifth of the members of the Supreme Judicial Council on grounds of Article 130, para 8, items 2 - 4 of the Constitution of the Republic of Bulgaria or where the incompatibility of an elected member of the Supreme Judicial Council has been found.

(5) (Renumbered from Paragraph 4, SG No. 103/2009, effective 29.12.2009) The procedure for early relief from office may also commence at the request of one-fifth of the members of the National Assembly on grounds of Article 130, para 8, items 2 - 4 of the Constitution of the Republic of Bulgaria or where the incompatibility of a member of the Supreme Judicial Council elected by the National Assembly has been found.

(6) (Renumbered from Paragraph 5, SG No. 103/2009, effective 29.12.2009) The resolution of the Supreme Judicial Council on the early relief from office of a member shall be adopted within one month of receipt of the request under para 4 or para 5 by a majority of more than two-thirds of the members thereof.

### **Article 28**

(Amended, SG No. 1/2011 effective as of 4.01.2011) Within one month of the expiry of the term of office or of its early termination on the grounds of Article 130, para 8, item 1 of the Constitution of the Republic of Bulgaria, the elected member of the Supreme Judicial Council shall be reinstated to the position of judge, prosecutor or investigating magistrate not lower than the one he/she had occupied before being elected, and the time spent as a member of the Supreme Judicial Council shall count toward his service record under Article 164, paras 1 - 7.

### **Article 29**

(1) (Previous Article 29, SG No. 33/2009) The remuneration of an elected member of the Supreme Judicial Council shall equal the remuneration of a judge at the Supreme Court of Cassation.

(2) (New, SG No. 33/2009) The provisions of Article 219, 221, 224 and 330 shall apply to elected members of the Supreme Judicial Council.

## **Section II**

# **Business and organisation of the Supreme Judicial Council**

### **Article 30**

(1) In order to discharge the powers specified by the Constitution, the Supreme Judicial Council shall carry out the following business:

1. Discuss the draft budget of the Judiciary, as proposed by the Minister of Justice, submit it to the Council of Ministers for incorporation in the draft State Budget of the Republic of Bulgaria

Act and control its implementation,

2. (Amended, SG No. 1/2011, effective as of 4.01.2011) Set the number, judicial areas and the seats of district, regional, administrative and appellate courts at the proposal of or in coordination with the Minister of Justice and, as regards military courts - in coordination with the Minister of Defence; to perform this activity the Supreme Judicial Council may, depending on the workload, establish and close courts, amend the judicial areas and the seats of the courts.

3. (Supplemented, SG No. 33/2009, amended, SG No. 1/2011, effective as of 4.01.2011) Set the number of judges, prosecutors and investigating magistrates in the courts, prosecution offices and investigation bodies, depending on the workload, at the proposal of or in coordination with the administrative heads of the judicial system bodies, and for prosecutors and investigating magistrates - with the Prosecutor General, having the option to open new and to cut unoccupied positions;

3a. (New, SG No. 1/4.01.2011, effective as of 4.01.2011) Set the number of court clerks in compliance with the workload - at the proposal of or following coordination with the administrative heads of the judicial system bodies, and for the bodies included in the structure of the Republic of Bulgaria Prosecution Office - also with the Prosecutor General, having the option to open new and to cut unoccupied positions;

4. (Supplemented, SG No. 1/2011, effective as of 4.01.2011) Organise and carry out competitions for the positions of judges, prosecutors and investigating magistrates in the cases provided for herein;

5. Set the number of administrative heads and of the deputies of administrative heads for the respective judicial system bodies, appoint and relieve them from office, with the exception of the Chairperson of the Supreme Court of Cassation, the Chairperson of the Supreme Administrative Court and the Prosecutor General,

6. Propose the Chairperson of the Supreme Court of Cassation, the Chairperson of the Supreme Administrative Court and the Prosecutor General for appointment and relief from office by the President of the Republic of Bulgaria,

7. Elect and relieve from office the Director of the National Investigation Service,

8. Set the remuneration of judges, prosecutors and investigating magistrates,

9. (Amended, SG No. 1/2011 effective as of 4.01.2011,) report and analyse annually the workload of the judicial system bodies,

10. (Supplemented, SG No. 1/2011 effective as of 4.01.2011, amended, SG No. 32/2011, effective 19.04.2011) Appraise the performance of judges, prosecutors, investigating magistrates, and of administrative heads and their deputies in the cases provided for in law according to criteria specified in the Regulation under article 209a;

11. Keep and store service files of judges, prosecutors and investigating magistrates,

12. (Amended, SG No. 33/2009, SG No. 1/2011 effective as of 4.01.2011) Approve a Code of Ethical Behaviour of Bulgarian Magistrates and a Code of Ethics of the court clerks;

13. (Amended, SG No. 33/2009) Every semester require and summarise information from the courts, the Prosecution Office and the National Investigation Service about their business,

14. No later than 31 May, prepare and submit to the National Assembly a summary annual report on its business and on the business of the Inspectorate at the Supreme Judicial Council, as well as the annual reports of the Supreme Court of Cassation, the Supreme Administrative Court and of the Prosecutor General,

15. Set up and maintain an electronic public register of all its resolutions and the reasoning thereto,

16. (Amended, SG No. 33/2009) Approve the automated information systems for the judicial system bodies, secure their system integration and interoperability and adopt an Ordinance concerning the procedure for their establishment, implementation, use and development,

17. Organise, manage and control the participation of judges, prosecutors and investigating magistrates in international legal cooperation, including, among others, their participation in the national judicial network.

18. (New, SG No. 33/2009, amended, SG No. 1/2011, effective as of 4.01.2011) Assign to the Inspectorate at the Supreme Judicial Council to perform inspections not included in the annual programme of its business,

(2) (Amended, SG No. 33/2009) While discharging its business under para 1, the Supreme Judicial Council shall require the opinion of the administrative heads of the respective judicial system bodies.

(3) (Amended, SG No. 33/2009, amended, SG No. 1/2011, effective as of 4.01.2011) The business of the Supreme Judicial Council shall be assisted by an administration.

(4) The Supreme Judicial Council shall adopt Regulations concerning the organisation of its business and its administration which shall be published in the State Gazette.

### **Article 30a**

(New, SG No. 1/4.01.2011, effective as of 4.01.2011) (1) The Supreme Judicial Council shall open, maintain and keep a service file for every judge, prosecutor and investigating magistrate.

(2) The service file shall contain the documents related to the appointment and relieving from office of judges, prosecutors and investigating magistrates, to their professional development, results from inspections related to received complaints and alerts, incentives -

distinctions and awards received and sanctions imposed. The declarations on incompatibility, copies of appraisal forms and other documents on the professional and moral characteristics shall also be attached to the service file.

(3) Copies of the documents under paragraph 2 shall be kept at the judiciary body in which the respective judge, prosecutor or investigating magistrate is appointed.

(4) Judges, prosecutors and investigating magistrates shall be entitled to familiarize themselves with their service files on request as well as to receive certified copies of the documents kept therein.

### **Article 31**

The Supreme Judicial Council shall provide the Council of Ministers and the National Assembly with opinions on draft legislation with a bearing on the Judiciary.

### **Article 32**

(Amended, SG No. 33/2009)

(1) The Minister of Justice shall organise and head the sessions of the Supreme Judicial Council.

(2) In the absence of the Minister of Justice, the sessions shall be chaired by the person chairing the Supreme Judicial Council.

(3) In case neither the Minister of Justice nor the acting chair attends the session, it shall be chaired by members of the Supreme Judicial Council in order of seniority.

(4) In the cases under paras 2 and 3, the Minister of Justice, respectively the acting chair, shall inform the relevant replacement in advance so that the latter can organise the session. In such cases the session may be attended by a Deputy Minister designated by the Minister of Justice.

### **Article 33**

(1) (Supplemented, SG No. 33/2009) Supreme Judicial Council sessions shall be convoked by the acting chair at least once every week. In the absence of the acting chair, sessions shall be convoked by the person chairing the Supreme Judicial Council.

(2) Supreme Judicial Council members shall be notified of the date and agenda for the session three days in advance, with written material for the session being provided to them.

(3) Additions to the agenda notified in advance can be made on the session day upon resolution of the Supreme Judicial Council.

(4) Supreme Judicial Council sessions shall be public except where documents classified in

pursuance of the Classified Information Protection Act or proposals for the imposition of disciplinary sanctions are discussed.

(5) Resolutions adopted in a closed session shall be announced publicly.

#### **Article 34**

(1) A session of the Supreme Judicial Council shall be held where more than half of its members are present.

(2) Resolutions shall be adopted by a majority of more than half of the Supreme Judicial Council members present, by public voting, unless otherwise required by the Constitution.

(3) It shall be considered that a resolution whereby a proposal is not adopted is reasoned by means of the negative views, if any, stated by Supreme Judicial Council members. It shall be considered that a resolution of the Supreme Judicial Council whereby a proposal is adopted shall have the considerations of its sponsor as reasoning.

#### **Article 35**

(Amended, SG No. 1/2011, effective as of 4.01.2011) (1) A member of the Supreme Judicial Council shall not be entitled to vote for a resolution concerning him/her personally or his/her spouse, relative of direct lineage, of collateral lineage to the fourth degree and by marriage - to the third degree, or if there are other circumstances arousing suspicions in his/her impartiality.

(2) In the cases under paragraph 1 the member of the Supreme Judicial Council shall withdraw of his/her own volition at least 24 hours before the respective meeting and shall announce the circumstances that have necessitated the withdrawal. If he/she has not become aware of the agenda of the meeting through no fault of his/her own the member of the Supreme Judicial Council may withdraw at the meeting itself.

(3) (Declared unconstitutional with Judgment No.10 by the Constitutional Court of the Republic of Bulgaria, SG No. 93/2011)

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When there is evidence of the existence of the circumstances under paragraph 1 and the member of the Supreme Judicial Council fails to withdraw on his/her own volition the Commission for determining and preventing conflicts of interest of the Supreme Judicial Council shall prepare a report. When the circumstances under paragraph 1 are ascertained in the report the member of the Supreme Judicial Council shall be suspended by resolution of the Council and the circumstances that have necessitated the suspension shall be announced.

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(4) When additional items have been included in the agenda of the Supreme Judicial Council

meeting and the circumstances under paragraph 1 exist, with the exception of paragraphs 2 and 3, the Council shall postpone the consideration of the respective item.

### **Article 36**

(1) The interested parties may challenge Supreme Judicial Council resolutions within 14 days of their notification. An appeal shall not suspend the execution of a resolution, unless otherwise ordered by the court.

(2) The appeal shall be examined by a three-member panel of the Supreme Administrative Court within one month of being received in court together with the administrative file.

(3) The judgement of the three-member panel of the Supreme Administrative Court shall be subject to appeal on points of law before a five-member panel of the Supreme Administrative Court within 14 days of its notification.

### **Article 37**

(Amended, SG No. 1/2011, effective as of 4.01.2011)

(1) The Supreme Judicial Council shall elect from among its members a standing Commission on proposals and appraisal of judges, prosecutors and investigating magistrates and a Standing Commission for Professional Ethics and Prevention of Corruption, as well as other standing commissions that shall assist its business.

(2) The type and number of members of the standing commissions, as well as their powers, with the exception of those given to the Commission on proposals and appraisal of judges, prosecutors and investigating magistrates, and of the Commission for Professional Ethics and Prevention of Corruption shall be specified in the Regulations under Article 30, para 4.

(3) The Commission on proposals and appraisal of judges, prosecutors and investigating magistrates and the Commission for Professional Ethics and Prevention of Corruption shall consist of ten members each. Every Commission shall elect a chairperson from amongst its members.

(4) (Amended, SG No. 32/2011, effective 19.04.2011) In order to discharge its powers the Commission on proposals and appraisal of judges, prosecutors and investigating magistrates shall form from its membership two sub-commissions - a sub-commission for judges and a sub-commission for prosecutors and investigating magistrates.

(5) The Supreme Judicial Council may set up ad hoc commissions for the discharge of specific tasks related to its powers.

### **Article 38**

(1) (Amended, SG No. 1/2011, effective as of 4.01.2011) The Commission on proposals and appraisal of judges, prosecutors and investigating magistrates shall submit to the Supreme

Judicial Council draft decisions regarding:

1. The number of judges, prosecutors and investigating magistrates, as well as that of the administrative heads and their deputies,

2. The appointment, promotion in rank or position and the relief from office of judges, prosecutors and investigating magistrates,

3. (Supplemented, SG No. 33/2009) The appointment and relief from office of the administrative heads and of the deputies of administrative heads, with the exception of the Chairperson of the Supreme Court of Cassation, the Chairperson of the Supreme Administrative Court, the Prosecutor General and the Director of the National Investigation Service, who shall also be the deputy of the Prosecutor General in investigations,

4. (Amended, SG No. 1/2011, effective as of 4.01.2011) The acquisition of tenure status by judges, prosecutors and investigating magistrates.

(2) (Amended, SG No. 1/2011, effective as of 4.01.2011) Motions to the Commission on proposals and appraisal of judges, prosecutors and investigating magistrates in relation to the discharge of its powers under para 1 shall be made by the relevant judge, prosecutor and by the relevant administrative head.

(3) (Amended, SG No. 1/2011, effective as of 4.01.2011) The proposals by an administrative head shall be made, as follows:

1. By the Chairperson of the Supreme Court of Cassation for his/her deputies and for the judges in this court:

2. (Amended, SG No. 1/2011, effective as of 4.01.2011) By the Chairperson of the Supreme Administrative Court for his deputies and the judges of this court,;

3. By the Prosecutor General for:

a) (Amended, SG No. 33/2009) His deputies at the Supreme Prosecution Office of Cassation, at the Supreme Administrative Prosecution Office, and for the Director of the National Investigation Service, who shall also be the deputy of the Prosecutor General in investigations;

b) (New, SG No. 33/2009) Prosecutors at the Supreme Prosecution Office of Cassation and the Supreme Administrative Prosecution Office, and for investigating magistrates at the National Investigation Service;

c) (Renumbered from Littera b, SG No. 33/2009, repealed, SG No. 1/2011, effective as of 4.01.2011)

4. (Supplemented, SG No. 1/2011, effective as of 4.01.2011) By appellate prosecutors and by the appellate military prosecutor and the head of the appellate specialised prosecution office for their deputies and for the prosecutors at the appellate prosecution offices and at the appellate

military prosecution office and the appellate specialised prosecution office;

5. (Amended, SG No. 1/2011, effective as of 4.01.2011) By regional military prosecutors and the head of the specialised prosecution office respectively - for their deputies, for the prosecutors at regional military prosecution offices and of the specialised prosecution office, for military investigating magistrates and for the investigating judges at the investigation departments of the specialised prosecution office;

6. (Amended, SG No. 33/2009) By regional prosecutors - for their deputies, for heads of regional investigation departments at regional prosecution offices, for prosecutors at regional prosecution offices and for investigating magistrates at regional investigation departments of regional prosecution offices;

7. By district prosecutors - for their deputies and the prosecutors at regional prosecution offices;

8. (Amended, SG No. 1/2011, effective as of 4.01.2011) By chairpersons of appellate courts and of the appellate military court and the appellate specialised criminal court for their deputies and for the judges at these courts;

9. (Amended, SG No. 1/2011, effective as of 4.01.2011) By chairpersons of regional courts for their deputies and for the judges at these courts:

10. By chairpersons of administrative courts - for their deputies and the judges at these courts;

11. By the chairpersons of the military courts - for their deputies and for the judges at these courts;

12. (New, SG No. 1/4.01.2011, effective as of 4.01.2011) By the Chairperson of the specialised criminal court - for his/her deputies and for the judges at this court;

13. (Repealed, SG No. 33/2009, renumbered from Item 12, SG No. 1/2011, effective as of 4.01.2011) By chairpersons of district courts - for their deputies and the judges at these courts;

14. (Repealed, SG No. 33/2009).

(4) (New, SG No. 33/2009) The Director of the National Investigation Service may prepare proposals to the Prosecutor General for heads of the specialised departments at the National Investigation Service and for the investigating magistrates at those departments.

(5) (New, SG No. 1/4.01.2011, effective as of 4.01.2011) The heads of the regional investigation departments and the investigation departments at the specialised prosecution office may draw up proposals to the administrative heads of the regional prosecution offices and to the administrative head of the specialised prosecution office for investigation magistrates from these departments.



(6) (New, SG No. 33/2009, renumbered from Paragraph 5, SG No. 1/2011, effective as of 4.01.2011) Heads of regional investigation departments may prepare proposals to the administrative heads of regional prosecution offices for the investigating magistrates at those departments.

(7) (Renumbered from Paragraph 4, SG No. 33/2009, repealed, renumbered from Paragraph 6, SG No. 1/2011, effective as of 4.01.2011) The Minister of Justice may provide opinions on the proposals addressed to the Supreme Judicial Council.

(8) (Renumbered from Paragraph 6, SG No. 33/2009) The Supreme Judicial Council shall adopt resolutions on the proposals made by a majority of more than half of its members.

### **Article 39**

(Amended, SG No. 1/2011, effective as of 4.01.2011)

(1) The appraisal of judges, prosecutors and investigating magistrates, of administrative heads and deputies of administrative heads shall be done by the Commission on proposals and appraisal of judges, prosecutors and investigating magistrates of the Supreme Judicial Council and by auxiliary appraisal commissions at the judiciary bodies.

(2) The Commission on proposals and appraisal of judges, prosecutors and investigating magistrates shall conduct:

1. appraisals for acquiring tenure status by judges, prosecutors and investigating magistrates;

2. periodic appraisal of the deputies of the administrative heads and of the judges at the Supreme Court of Cassation and the Supreme Administrative Court, of the deputies of the Prosecutor General and of the prosecutors at the supreme cassation prosecution office and the supreme administrative prosecution office and of the investigating magistrates at the National Investigating Service;

3. (amended, SG No. 32/2011, effective 19.04.2011) periodic appraisal of the administrative heads of judiciary bodies, except for the Chairpersons of the Supreme Court of Cassation, the Supreme Administrative Court, and the Prosecutor General.

(3) The auxiliary appraisal commissions shall participate in the conduct of periodic appraisals of judges, prosecutors and investigating magistrates and of deputies of administrative heads, except for the cases under paragraph 2, item 2.

(4) The auxiliary appraisal commissions shall assist the Commission on proposals and appraisal of judges, prosecutors and investigating magistrates and shall be elected by the respective judiciary bodies on a random selection principle for each specific appraisal. They shall consist of three regular members and one substitute. The administrative head may not be elected as a member of an appraisal commission. The auxiliary appraisal commission shall elect a chairperson from amongst its members.

(5) In case there is no possibility to form an appraisal commission by the respective judiciary body its membership shall be supplemented by the higher judiciary body in the respective region.

(6) No auxiliary appraisal commissions shall be elected at the district courts, at the administrative courts, at the district prosecution offices, at the regional investigation departments of the regional prosecution offices and at the investigation department of the specialised prosecution office.

### **Article 39a**

(New, SG No. 1/4.01.2011, effective as of 4.01.2011)

(1) The Commission for Professional Ethics and Prevention of Corruption shall:

1. conduct studies, collect the required information and prepare opinions of the moral characteristics of applicants in the competitions for occupying positions in the judiciary bodies;

2. consider alerts of the existence of behaviour contradicting the rules of professional ethics and submit the results of the inspection to the Supreme Judicial Council;

3. collect and analyse information on the existence of instances of corruption in the judiciary bodies and submit it to the Supreme Judicial Council;

4. inform the Supreme Judicial Council of alerts by citizens and by state bodies of instances of corruption as well as of media publications and conduct inspections or submit the information to the professional ethics commissions to carry out an inspection;

5. organise the performance of the activities under the adopted corruption combat strategies and the action plans under them;

6. prepare the participation of the Supreme Judicial Council in joint events with other state bodies and non-profit legal persons related to the issues of combating corruption;

7. prepare draft agreements for joint actions and exchange information with state and public structures established to combat corruption;

8. prepare the participation in joint events of the Supreme Judicial Council and other state bodies and non-profit legal persons related to the issues of combating corruption;

9. draw up an annual report on its activities which shall be published on the web site of the Supreme Judicial Council.

(2) (Amended and supplemented, SG No. 32/2011, effective 19.04.2011) In order to discharge its powers under Paragraph 1, the Commission for Professional Ethics and Prevention of Corruption shall interact with the professional ethics commissions in the judiciary bodies as

well as with the competent bodies and institutions assisting the Commission and providing it with the necessary information.

**Article 39b** (New, SG No. 1/2011, effective as of 4.1.2011) (1) Professional ethics commissions shall be elected in the judiciary bodies.

(2) (New, SG No. 32/2011, effective 19.04.2011) The members of a professional ethics commission shall be elected by the general assembly of the relevant judiciary body for a four-year term. Commission members may not be elected for two consecutive terms. Each committee shall be comprised of three regular members and one substitute. The commission shall elect one of its members as chairperson.

(3) (New, SG No. 32/2011, effective 19.04.2011) Where it is not possible to set up a professional ethics commission, its functions shall be performed by the commission of the immediate superior judiciary body in the relevant judicial district.

(4) (New, SG No. 32/2011, effective 19.04.2011) (4) Professional ethics commissions shall support the Commission for Professional Ethics and Prevention of Corruption under the Supreme Judicial Council in the exercise of its powers under Article 39a, Paragraph 1, Items 1 - 6.

(5) (Renumbered from Paragraph 2, SG No. 32/2011, effective 19.04.2011) The professional ethics commissions shall perform their work on implementing the Code of Ethical Behaviour of Bulgarian Magistrates in compliance with the rules of their organisation and operation adopted by the Supreme Judicial Council.

## **Chapter three**

# **INSPECTORATE AT THE SUPREME JUDICIAL COUNCIL**

### **Section I**

## **General provisions**

#### **Article 40**

The business of the Inspectorate shall be based on the principles of legality, objectivity and publicity.

#### **Article 41**

The Inspectorate at the Supreme Judicial Council shall be a legal entity seated in Sofia.

### **Section II**

## **Election and early termination of the term of office of the**

# **Inspector General and of the inspectors**

## **Article 42**

(1) Lawyers with a high professional and moral characteristics shall be elected as Inspector General and of inspectors.

(2) (Amended, SG No. 1/2011, effective as of 4.01.2011, declared unconstitutional with Judgment No.10 by the Constitutional Court of the Republic of Bulgaria, in its part regarding the words "judge, prosecutor or investigating magistrate", SG No. 93/2011)

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A judge, prosecutor or investigating magistrate who has at least 15 years of legal service record, of which at least ten years as a judge in a regional or appellate court or in the Supreme Court of Cassation or the Supreme Administrative Court, a prosecutor in a regional or appellate prosecution office, the supreme cassation prosecution office or the supreme administrative prosecution office or an investigating magistrate in the National Investigation Service or in a regional investigation department, shall be elected as Inspector General.

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(3) (Amended, SG No. 1/2011, effective as of 4.01.2011) Individuals who also have at least 12 years of legal service record shall be elected as inspectors. For five of the inspectors within this length of service at least eight years shall be required, and for the remaining five - at least five years as a judge in a regional or appellate court, in the Supreme Court of Cassation or the Supreme Administrative Court, a prosecutor in a regional or appellate prosecution office, the supreme cassation prosecution office or the supreme administrative prosecution office or an investigating magistrate in the National Investigation Service or in a regional investigation department,

(4) (Amended, SG No. 33/2009, repealed, SG No. 1/2011, effective as of 4.01.2011).

## **Article 43**

The Inspector General and inspectors may not be individuals in respect to whom the grounds under Article 18, para 1 are present.

## **Article 44**

Nominations for the positions of the Inspector General and of inspectors shall be submitted to the National Assembly no earlier than three months and no later than two months prior to the expiry of the term of office of the Inspector General and of the inspectors.

## **Article 45**

(1) Nominations for the positions of the Inspector General and of inspectors shall be examined by a specialised standing commission of the National Assembly.

(2) The specialised standing commission shall conduct a hearing of the nominated candidates meeting the requirements of the law and shall submit to the National Assembly a report summarising the outcomes thereof.

#### **Article 46**

The National Assembly shall separately elect the Inspector General and the inspectors by a majority of two-thirds of its members.

#### **Article 47**

(1) The Inspector General and the inspectors shall enter office on the day of the expiry of the term of office of the individuals whom they have been selected to replace.

(2) The Inspector General and the inspectors shall vacate the positions and terminate the business incompatible with the requirements of Article 18, para 1 prior to entering office, of which they shall notify the Chairperson of the National Assembly.

#### **Article 48**

(1) The Inspector General and the inspectors shall be relieved from office, prior to the expiry of their term, upon:

1. Resignation,
2. The entry into force of a judicial act for a consummated criminal offence,
3. (Amended, SG No. 33/2009) The presence of a lasting de facto inability to discharge their duties for more than one year,
4. Disbarment from the legal profession or from the exercise of business as a lawyer,
5. A serious breach or systematic failure to discharge their official duties, as well as upon taking actions that encroach on the prestige of the Judiciary,
6. Failure to discharge their duties under Article 47, para 2.

(2) In cases under para 1, items 2 - 6 a proposal for the relief from office of the Inspector General or of the inspectors may be extended by at least one-fifth of the members of the National Assembly or of the Supreme Judicial Council.

#### **Article 49**

Upon relief from office, on grounds of Article 48, para 1, of the Inspector General or of an

inspector, the National Assembly shall elect in his stead a new Inspector General or an inspector who shall serve until the end of his predecessor's term of office.

#### **Article 50**

(Amended, SG No. 1/2011, effective as of 4.01.2011, declared unconstitutional with Judgment No.10 by the Constitutional Court of the Republic of Bulgaria, in its part regarding the words "judge, prosecutor or investigating magistrate", SG No. 93/2011)

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Upon expiry of the term of office or upon early termination thereof on grounds of Article 48, para 1, item 1, the Inspector General and the inspectors shall be reinstated to a position of judge, prosecutor or investigating magistrate which is not lower than the one occupied prior to the election.

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#### **Article 51**

(1) The remuneration of the Inspector General shall equal that of the chairperson of division at the Supreme Court of Cassation.

(2) The remuneration of inspectors shall equal that of a judge at the Supreme Court of Cassation.

#### **Article 52**

(Amended, SG No. 1/2011, effective as of 4.01.2011) Time in service as Inspector General or inspector, expert in the Inspectorate at the Supreme Judicial Council shall count toward the service record under Article 164, paras 1 - 5.

#### **Article 53**

(Amended, SG No. 33/2009)

Chapter sixteen and Article 219, 221, 224 and 330 shall apply to the Inspector General and to the inspectors.

### **Section III**

## **Inspectorate powers**

#### **Article 54**

(1) The Inspectorate shall:

1. Check the organisation of administrative business in courts, prosecution offices and investigation bodies,

2. Check the arrangements made for the institution and progress of court, prosecution and investigation case files, as well as the disposal thereof within the established time limits,

3. Analyse and summarise the cases that have been disposed of by virtue of an effective judicial act, as well as the files and cases assigned to the prosecutors and investigating magistrates,

4. In the presence of contradictory jurisprudence the existence of which has been found in the course of business under para 3, it shall alert the competent bodies of the need to demand interpretative judgements or interpretative decrees,

5. In presence of violations in the discharge of business under items 1 - 3, it shall alert the administrative head of the body concerned and the Supreme Judicial Council,

6. Make proposals for the imposition of disciplinary sanctions on judges, prosecutors and investigating magistrates and on the administrative heads of judicial system bodies,

7. address alerts, proposals and reports to other state bodies, including the competent judicial system bodies,

8. Prepare and submit to the Supreme Judicial Council an annual programme and a report on its business,

9. Discuss the draft budget for the Judiciary proposed by the Minister of Justice with regard to the budgetary account of the Inspectorate and submit it to the Supreme Judicial Council,

10. Provide on an annual basis public information about its business and publish the report on its business on the website of the Supreme Judicial Council.

(2) The Inspectorate shall adopt resolutions by a majority of more than half of its members.

## **Article 55**

(1) (Amended, SG No. 33/2009) In the discharge of its business the Inspectorate shall be assisted by an administration. The number of administrative staff may not exceed the number of inspectors multiplied by two and a half, including the Inspector General.

(2) (Amended, SG No. 33/2009) In addition to the administrative staff under para 1, experts with at least 5 years of legal service record who meet the requirements under Article 18, para 1, shall be appointed at the Inspectorate through competition.

(3) (Amended, SG No. 33/2009) Experts at the Inspectorate shall be appointed and relieved from office by the Inspector General.

(4) (Amended, SG No. 33/2009) The remuneration of the experts at the Inspectorate shall be equal to the remuneration of a judge at a district court.

(5) (New, SG No. 33/2009) The Inspectorate shall adopt Regulations concerning the organisation of its business and the business of the administration and the experts, which shall be published in the State Gazette.

#### **Article 56**

(1) The Inspectorate shall act through inspections envisaged in its annual programme or following alerts.

(2) An inspection shall be carried out by the Inspector General or by an inspector assisted by experts.

(3) The Inspector General shall fix by order the procedure of inspection.

#### **Article 57**

(1) Inspections envisaged in the annual programme shall be carried out by teams designated by a draw of lots that shall include the inspecting officer under Article 56, para 2 and the experts who will assist him. The draw of lots shall be carried out by the Inspector General in presence of all inspectors, immediately after the annual programme has been elaborated.

(2) For inspections triggered by alerts, the inspecting officer under Article 56 para 2 and two experts shall be designated on the basis of electronic distribution pursuant to the random selection principle in the order of receipt of such tip-offs.

#### **Article 58**

(1) Inspections shall be assigned at the order of the Inspector General that shall set out:

1. The judicial system body, the judge, prosecutor or investigating magistrate to be inspected, the objectives and the time imparted for completion of the inspection,

2. The name of the inspecting officers under Article 56, para 2,

3. The names of the experts who will assist him,

4. The time imparted for drafting the act setting out the outcomes of the inspection.

(2) The act setting out the outcomes of the inspection shall contain the findings from the inspection and, where necessary, recommendations and a time limit for their implementation.

(3) The act setting out the outcomes of the inspection shall be provided to the inspected judge, prosecutor or investigating magistrate, as well as to the administrative head of the judicial system body concerned. Each of them may file objections and submit them to the Inspector



General within a period of 7 days.

(4) The administrative head shall notify the Inspector General of the implementation of recommendations, if any, within the time specified in the act setting out the outcomes of the inspection.

#### **Article 59**

The administrative heads of judicial system bodies shall be obligated to provide assistance to the Inspector General and the inspectors in the discharge of their powers and provide them access of materials required to this effect.

#### **Article 60**

(1) The Inspector General shall also ensure the general organisational and methodological guidance of Inspectorate business by means of:

1. Representing the Inspectorate and designating a replacement during his absence,
2. Disposing of the funds on the budgetary account of the Inspectorate,
3. Controlling the business of inspectors,
4. Making arrangements for the publication of a Bulletin with the outcomes of inspections to be published on the Supreme Judicial Council website,
5. Entering and terminating labour contracts with experts and members of the Inspectorate administrative staff,
6. Making arrangements for improving the qualifications of inspectors and of the Inspectorate administration.

(2) The Inspector General shall take part in Supreme Judicial Council sessions, but not in voting.

## **Chapter four COURTS**

### **Section I General provisions**

#### **Article 61**

(1) (Amended, SG No. 1/2011, effective as of 4.01.2011) The courts in the Republic of Bulgaria shall be district, regional, administrative, military, appellate, a specialised criminal

court, an appellate specialised criminal court, a Supreme Court of Cassation and a Supreme Administrative Court.

(2) The courts shall have competent jurisdiction in civil, criminal and administrative cases.

(3) A case examined by a court may not be examined by another body.

### **Article 62**

The areas of district, regional, administrative, military and appellate courts may not necessarily coincide with the administrative division of the country's territory.

### **Article 63**

(1) (Amended, SG No. 1/2011, effective as of 4.01.2011) The district, regional, administrative, the specialised criminal court and the military courts shall examine at first instance the cases specified by law.

(2) The regional courts shall examine at second instance the appealed acts in cases of the district courts, as well as other cases assigned to them by law.

(3) The administrative courts shall act in cassation when examining the administrative cases specified by law.

(4) The appellate courts shall examine at second instance the appealed acts in cases of the regional courts, as well as other cases assigned to them by law.

(5) (New, SG No. 1/2011, effective as of 4.01.2011) The appellate specialised criminal court shall examine as second instance the appealed acts in cases of the specialised criminal court.

(6) (Renumbered from Paragraph 5, SG No. 1/2011, effective as of 4.01.2011) The appellate military court shall examine at second instance the appealed acts in cases of the military courts.

(7) (Renumbered from Paragraph 6, SG No. 1/2011, effective as of 4.01.2011) The Supreme Court of Cassation shall act in cassation in respect to judicial acts specified by law and shall also examine other cases specified by law.

(8) (Renumbered from Paragraph 7, SG No. 1/2011, effective as of 4.01.2011) The Supreme Administrative Court shall examine at first instance the acts specified by law and act in cassation in respect to the appealed acts in cases of the administrative courts and to acts in cases of Supreme Administrative Court three-member panels.

(9) (Renumbered from Paragraph 8, SG No. 1/2011, effective as of 4.01.2011) Jurisdiction disputes between the Supreme Court of Cassation and the Supreme Administrative Court shall be resolved by a panel to be composed of three representatives of the Supreme Court of Cassation

and of two representatives of the Supreme Administrative Court whose ruling shall be final.

#### **Article 64**

(1) (Amended, SG No. 33/2009) Judicial acts shall be published on the website of the respective court as soon as they are adopted, subject to the requirements of the Personal Data Protection Act and to the Classified Information Protection Act.

(2) (New, SG No. 81/2011) The acts referred to in paragraph 1 shall be published in a way not making it possible to identify the individuals mentioned in such acts.

(3) (Renumbered from Paragraph 2, SG No. 81/2011) Case acts affecting the civil or health status of individuals shall be published without their reasoning.

#### **Article 65**

All courts shall be legal entities funded by the state budget.

## **Section II**

### **Court assessors**

#### **Article 66**

(1) In cases specified by law, court assessors shall also be part of the judicial panel examining a case at first instance.

(2) Court assessors shall have the same rights and obligations as judges.

#### **Article 67**

(1) (Amended, SG No. 1/2011, effective as of 4.01.2011) A court assessor shall be a legally competent Bulgarian national over 21 years and under 65 years of age at the time in which he is appointed as court assessor, has good reputation in society and has not been convicted of a deliberate criminal offence, notwithstanding any subsequent rehabilitation.

(2) (Amended, SG No. 1/2011, effective as of 4.01.2011) Court assessors in military courts may be generals (admirals), officers and non-commissioned officers in military service.

#### **Article 68**

(1) The municipal councils in the judicial area of the respective court shall nominate court assessors, at least 10 percent of such nominees having a teaching background.

(2) (New, SG No. 1/4.01.2011, effective as of 4.01.2011) The Sofia City Council shall nominate court assessors to the specialised criminal court.

(3) (Renumbered from Paragraph 2, SG No. 1/2011, effective as of 4.01.2011) Court assessors shall be designated for:

1. The district courts - by the general assembly of the judges of the respective regional court,

2. The regional courts - by the general assembly of the judges of the respective appellate court.

3. (New, SG No. 1/4.01.2011, effective as of 4.01.2011) The specialised criminal court - by the general assembly of the judges of the appellate specialised criminal court.

(4) (Renumbered from Paragraph 3, SG No. 1/2011, effective as of 4.01.2011) Court assessors in military courts shall be designated at the proposal of commanding officers of the respective military units by the general assembly of the judges of the appellate military court.

### **Article 69**

(1) (Previous Article 69, supplemented, SG No. 1/2011, effective as of 4.01.2011) The term of office of court assessors shall be five years which shall start to run as of the date of taking the oath under Article 70.

(2) (New, SG No. 1/2011, effective as of 1.01.2011) If the examination of the case, in which court assessors take part, continues after the term under paragraph 1 their term of office shall be extended until the conclusion of the case at the respective court instance.

### **Article 70**

Court assessors shall take oath before the respective general assembly.

### **Article 71**

A court assessor shall be relieved from office early by the respective general assembly acting at the proposal of the chairperson of the court:

1. At his own request,

2. Following incapacitation,

3. Following conviction of a deliberate criminal offence,

4. In presence of a lasting de facto inability to discharge his duties for more than one year,

5. For reason of a serious breach of his duties or of systematic failure to discharge these or of having taken action which undermines the prestige of the Judiciary.

### **Article 72**

(1) Court assessors shall be convoked to take part in court hearings by the chairperson of the court for up to 60 days in a calendar year, unless the examination of a case in which they take part continues beyond such term.

(2) For each court panel core and reserve court assessors shall be designated by a draw of lots.

### **Article 73**

Court assessors shall receive remuneration for their participation in court hearings from the budget of the Judiciary.

### **Article 74**

(1) The chairperson of the court may, by personal order, impose a fine of BGN 50 to BGN 500, on a court assessor for the latter's failure to discharge his duties, having provided him the opportunity to explain.

(2) Following appeal of the sanctioned court assessor, the chairperson of the higher-standing court may repeal the personal order under para 1 or reduce the amount of fine.

### **Article 75**

(1) (Previous Article 75, amended, SG No. 1/2011, effective as of 4.01.2011, Declared unconstitutional with Judgment No. 10 by the Constitutional Court of the Republic of Bulgaria, SG No. 93/2011)

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The Supreme Judicial Council, shall adopt an Ordinance specifying:

1. The procedure for nominating court assessors,
2. The remuneration of court assessors,
3. Other organisational matters of relevance to court assessors.

(2) (New, SG No. 1/4.01.2011, effective as of 4.01.2011) The Ordinance under paragraph 1 shall be published in the State Gazette.

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## **Section III**

### **District courts**

## **Article 76**

The district court shall be the main court of first instance. It shall be a competent jurisdiction in all cases, except those in which another court has jurisdiction by virtue of the law.

## **Article 77**

(1) A district court shall be composed of judges and headed by a chairperson.

(2) Divisions may be set up at the district court.

(3) A criminal record bureau shall be set up at all district courts.

(4) The functions, the business arrangements of criminal record bureaux and the control of their business shall be set out in an ordinance of the Minister of Justice.

## **Article 78**

A district court shall examine cases in a panel composed of one judge, unless otherwise provided for by law.

## **Article 79**

(1) In a district court with at least three judges the general assembly shall consist of all judges. Where the number of judges is lesser than three, they shall take part in the general assembly of another district court in the same judicial area designated by the chairperson of the regional court.

(2) The general assembly of the district court shall:

1. Analyse and summarise the jurisprudence of the court,

2. Examine other matters at the proposal of the chairperson of the court or of a member of the general assembly.

(3) The general assembly may not examine and adopt resolutions on organisational matters of court business falling in the competence of the chairperson of the district court.

(4) (New, SG No. 1/4.01.2011, effective as of 4.01.2011) The general assembly may be convened also on request by at least one third of all judges.

(5) (Renumbered from Paragraph 4, SG No. 1/2011, effective as of 4.01.2011) A general assembly shall take place where more than half of all judges are present and it shall adopt resolutions by a majority of more than half of the judges present.

## **Article 80**

(1) The chairperson of a district court shall:

1. Provide overall organisational and administrative direction, being responsible for the business of the court which he represents;

2. Prepare:

a) The annual court business report no later than 31 January and submit it to the chairperson of the Regional court who shall incorporate it in his annual report,

b) (Amended, SG No. 33/2009) Electronic information, enquiries and statistics based on models and within time-limits as endorsed by the Supreme Judicial Council, and submit these to the Supreme Judicial Council and the Minister of Justice;

3. At the end of each semester he shall prepare and submit to the Inspectorate at the Supreme Judicial Council summarised information about the institution, progress and termination of files and cases of the judges, as well as about acts that have been definitely repealed by higher-standing instances, and, in addition, to the Minister of Justice - information about the institution, progress and termination of files and cases of state enforcement agents and recordation judges;

4. Take part in court hearings;

5. Inform the Minister of Justice of available positions for state enforcement agents and recordation judges;

6. Manage and control the work of state enforcement agents, of criminal record bureaux at the court and of recordation judges;

7. (Repealed, SG No. 33/2009);

8. Appoint and relieve from office clerks at the court and organise the work of the various services;

9. Convoke and head the general assembly of the court;

10. Organise the publication of effective acts on the website of the district court;

11. Publish the annual court progress report on the website of the district court within one month of its submission to the chairperson of the regional court.

(2) Personal orders of the chairperson in relation to the work organisation of the court shall be binding on all judges and clerks thereat.

## **Article 81**

(1) (Amended, SG No. 33/2009) Where the position of a judge at a district court is vacant or a judge is prevented from discharging his office and cannot be replaced by another judge of the

same court, the chairperson of the respective regional court may second in his stead a judge from another district court, a judge from the regional court or a junior judge with a service record of no less than two years. Such secondment shall take place subject to the requirements of Article 227.

(2) Where such secondment is impracticable, the chairperson of the appellate court may second a judge from the area of another regional court subject to the conditions under para 1.

(3) (New, SG No. 33/2009) Where secondment under paras 1 and 2 is impracticable, the chairperson of the Supreme Court of Cassation may second a judge from the area of another appellate court.

(4) (Renumbered from Paragraph 3, supplemented, SG No. 33/2009) The secondment of the judge shall be coordinated with his administrative head, and the secondment order shall be reasoned.

## **Section IV**

### **Regional court**

#### **Article 82**

(1) The regional court shall examine at first instance:

1. Criminal cases in a panel composed of one judge and two court assessors, unless otherwise provided for by law,

2. Civil cases in a panel composed of one judge.

(2) A junior judge may sit on the panel of a first-instance court in a criminal case, but may not be a single judge or the rapporteur therein.

#### **Article 83**

(1) The regional court acting at second instance shall examine cases in a panel of three judges, unless otherwise provided for by law.

(2) In cases under para 1 only one of the regional court panel members may be a junior judge.

(3) The panel shall be presided over by the most senior judge in position or rank.

#### **Article 84**

(1) The regional court shall consist of judges and junior judges and shall be headed by a chairperson.

(2) Based on a resolution of the general assembly of regional court judges, divisions may be



set up and headed by the chairperson or his deputies.

### **Article 85**

(1) The regional court shall have a general assembly that shall consist of all judges.

(2) Junior judges and the chairpersons of district courts shall take part in the general assembly in a no- voting capacity.

(3) The general assembly of a regional court shall:

1. Discuss, at the end of each three-year period, the distribution of judges by divisions and make a proposal to this effect to the chairperson of the court,

2. Analyse and summarise the jurisprudence of the regional court and of the district courts within its judicial area,

3. Examine on a regular basis the situation of the criminal and other types of offences and summarise the experience of the regional court and of the district courts within its judicial area,

4. Give opinions on requests for the adoption of interpretative judgements or interpretative decrees,

5. Adopt resolutions in other cases provided for by law.

(4) The general assembly may not examine and adopt resolutions on matters of relevance to court business organisation falling within the competence of the chairperson of a regional court.

(5) (New, SG No. 1/4.01.2011, effective as of 4.01.2011) The general assembly shall be convened also on request by at least one third of all judges.

(6) (Renumbered from Paragraph 5, SG No. 1/2011, effective as of 4.01.2011) A general assembly shall take place where more than half of all judges are present thereat and it shall adopt resolutions by a majority of more than half of the judges present.

### **Article 86**

(1) The chairperson of the regional court shall:

1. Provide overall organisational and administrative direction of the regional court and represent it;

2. At the end of each six-month period he shall prepare and submit to the Inspectorate at the Supreme Judicial Council and to the Minister of Justice summarised information about the institution, progress and termination of cases, as well as about the acts that have been definitely repealed by higher-standing instances;

3. Prepare:

a) An annual report on the business of the regional court and of the district courts in its judicial area and submit it to the chairperson of the appellate court at the respective judicial area by the end of February who shall incorporate it in his annual report,

b) (Amended, SG No. 33/2009) Electronic information, enquiries and statistics based on models and within time-limits as endorsed by the Supreme Judicial Council, and submit these to the Supreme Judicial Council and the Minister of Justice;

4. At the end of each three-year period, distribute judges at the regional court by divisions;

5. Chair judicial panels in all divisions;

6. Carry out in person or assign a judge of the regional court the carrying out of inspection into the organisation of the business of judges at the district court, as well as of state enforcement agents and recordation judges;

7. Organise the improvement of qualifications of regional court judges;

8. Convene the judges of the regional court and of the regional courts for a discussion of the reports under item 3, littera a), of the reports from inspections and of the requests for adoption of interpretative judgements or interpretative decrees;

9. Second judges, state enforcement agents and recordation judges in the area of the regional court subject to the conditions of Articles 81, 274 and 290;

10. Organise the training of trainee lawyers and be responsible for it;

11. Appoint and relieve from office the clerks of court and organise the work of the various services;

12. Convoke and head the general assembly;

13. Organise the publication of effective acts on the website of the regional court;

14. Publish the annual court business report on the website of the regional court within a period of up to one month following its submission to the chairperson of the appellate court.

(2) Personal orders of the chairperson in relation to the work organisation of the court shall be binding on all judges and clerks thereat.

### **Article 87**

(1) (Amended, SG No. 33/2009) Where the position of a judge at the regional court is vacant or a judge is prevented from discharging his office and cannot be replaced by another judge of the same court, the chairperson of the appellate court may second in his stead a judge

from the appellate court, from another regional court or a judge from a district court with the rank of a regional court judge from the judicial area of the appellate court. Such secondment shall take place subject to the requirements of Article 227.

(2) (New, SG No. 33/2009) Where secondment under para 1 is impracticable, the chairperson of the Supreme Court of Cassation may second a regional judge from the area of another appellate court.

(3) (Renumbered from Paragraph 2, supplemented, SG No. 33/2009) The secondment of the judge shall be coordinated with his administrative head, and the secondment order shall be reasoned.

### **Article 88**

There shall be a city court in Sofia having the powers of a regional court.

## **Section V**

### **Administrative court**

### **Article 89**

(1) The administrative court shall have jurisdiction at first instance in all administrative cases except those in which the Supreme Administrative Court shall have jurisdiction by law.

(2) The seats and judicial areas of the administrative courts shall coincide with those of the regional courts.

### **Article 90**

(1) The administrative court shall hear administrative cases in a panel composed of one judge, unless otherwise provided for by law.

(2) In proceedings before the administrative court a prosecutor with the administrative department of the respective regional prosecution office shall take part, in cases provided for by law.

### **Article 91**

(1) The administrative court shall consist of judges and shall be headed by a chairperson.

(2) Based on a resolution of the general assembly of judges at the administrative court, divisions specialised by subject may be set up and headed by the chairperson or his deputies.

### **Article 92**

(1) The administrative court shall have a general assembly that shall consist of all judges.

(2) The general assembly shall:

1. Endorse on an annual basis the composition of divisions,

2. Discuss, at the end of each three-year period, the distribution of judges by divisions, if any have been set up, and make a proposal to this effect to the chairperson of the administrative court,

3. Analyse and summarise the jurisprudence of the administrative court,

4. Give opinions to the Supreme Administrative Court on requests for the adoption of interpretative judgements and interpretative decrees,

5. Adopt resolutions in other cases provided for by law.

(3) The general assembly may not examine and adopt resolutions on matters concerning court business organisation, falling in the competence of the chairperson of the administrative court.

(4) (New, SG No. 1/4.01.2011, effective as of 4.01.2011) The general assembly shall be convened also on request by at least one third of all judges.

(5) (Renumbered from Paragraph 4, SG No. 1/2011, effective as of 4.01.2011) The general assembly shall take place where more than half of all judges are present and it shall adopt resolutions by a majority of more than half of the judges present.

### **Article 93**

(1) The chairperson of the administrative court shall:

1. Provide for the overall organisational and administrative direction of the administrative court and represent it;

2. Prepare:

a) An annual report on the business of the administrative court which he shall submit by the end of February to the chairperson of the Supreme Administrative Court who shall incorporate it in his annual report,

b) (Amended, SG No. 33/2009) Electronic information, enquiries and statistics based on models and within time-limits as endorsed by the Supreme Judicial Council, and submit these to the Supreme Judicial Council and the Minister of Justice;

3. At the end of each six-month period he shall prepare and submit to the Inspectorate at the Supreme Judicial Council and to the Minister of Justice summarised information about the institution, progress and termination of cases, as well as about the acts that have been definitely

repealed by higher-standing instances;

4. Distribute the judges of the administrative court by divisions, if any have been set up;
5. Chair judicial panels in all divisions;
6. Convene the judges of the administrative court for a discussion of the report under item 2, littera a) and of the requests for adoption of interpretative judgements or interpretative decrees;
7. Appoint and relieve from office clerks at the court and organise the work of the various services;
8. Convoke and head the general assembly of the judges at the court;
9. Organise the publication of effective acts on the website of the administrative court;
10. Publish the annual court business report on the website of the administrative court within a period of up to one month of its submission to the chairperson of the Supreme Administrative Court.

(2) Personal orders of the chairperson concerning the work organisation of the court shall be binding on all judges and clerks thereat.

#### **Article 94**

(1) (Amended, SG No. 33/2009) Where the position of a judge at an administrative court is vacant or a judge is prevented from discharging his office and cannot be replaced by another judge of the same court, the chairperson of the Supreme Administrative Court may second in his stead a judge from another administrative court. Such secondment shall take place subject to the requirements of Article 227.

(2) (Supplemented, SG No. 33/2009) Secondment of the judge shall be coordinated with his administrative head, and the secondment order shall be reasoned.

## **Section VI**

### **Military court**

#### **Article 95**

(1) The competence of the military court shall be stipulated by law.

(2) The military court shall be equal in standing to a regional court.

#### **Article 96**

The military court shall consist of judges and shall be headed by a chairperson.

## **Article 97**

(1) The military court shall examine cases in a panel composed of one judge and of court assessors, unless otherwise provided for by law.

(2) The judicial panel shall be chaired by the most senior judge.

## **Article 98**

(1) The military court shall have a general assembly which shall consist of all judges.

(2) The general assembly of the military court shall discharge the respective powers of a general assembly of a regional court.

(3) The general assembly may not examine and adopt resolutions on matters of relevance to court business organisation, falling in the competence of the chairperson of a military court.

(4) (New, SG No. 1/4.01.2011, effective as of 4.01.2011) The general assembly shall be convened also on request by at least one third of all judges.

(5) (Renumbered from Paragraph 4, SG No. 1/2011, effective as of 4.01.2011) A general assembly of the military court shall take place where more than half of all judges are present and it shall adopt resolutions with a majority of more than half of the judges present.

## **Article 99**

The chairperson of the military court shall have the respective powers of a chairperson of a regional court.

## **Article 100**

(1) (Amended, SG No. 33/2009) Where a military judge is prevented from discharging his office and cannot be replaced by another judge of the same court, the chairperson of the appellate military court may second in his stead a judge from another military court. Such secondment shall take place subject to the requirements of Article 227.

(2) (Supplemented, SG No. 33/2009) Secondment of the judge shall be coordinated with his administrative head, and the secondment order shall be reasoned.

## **Section VIa** **(New, SG No. 1/4.01.2011, effective as of 4.01.2011)** **Specialised Criminal Court**

### **Article 100a**

(New, SG No. 1/4.01.2011, effective as of 4.01.2011) (1) The competence of the specialised criminal court shall be determined with an act of parliament.

(2) The specialised criminal court shall be equal in standing to a regional court and its seat shall be in Sofia.

#### **Article 100b**

(New, SG No. 1/4.01.2011, effective as of 4.01.2011) The specialised criminal court shall consist of judges and shall be headed by a chairperson.

#### **Article 100c**

(New, SG No. 1/4.01.2011, effective as of 4.01.2011) (1) The specialised criminal court shall examine cases in a panel of one judge and two court assessors unless the law provides otherwise.

(2) The court panel shall be chaired by the most senior judge in terms of position or rank.

#### **Article 100d**

(New, SG No. 1/4.01.2011, effective as of 4.01.2011) The specialised criminal court shall have a general assembly consisting of all judges. The provisions of article 98, paragraphs 2-5 shall apply to the general assembly.

#### **Article 100e**

(New, SG No. 1/4.01.2011, effective as of 4.01.2011) The chairperson of the specialised criminal court shall have the powers of a chairperson of a regional court respectively.

#### **Article 100f**

(New, SG No. 1/4.01.2011, effective as of 4.01.2011) (1) When the position of a judge in the specialised criminal court is vacant or a judge is prevented from discharging his/her duties and cannot be replaced by another judge, the chairperson of the appellate specialised criminal court may second to his/her place a judge from the appellate specialised criminal court in compliance with the terms of Article 227.

(2) When the secondment under paragraph 1 is not possible the Chairperson of the Supreme Court of Cassation may second a judge from a regional or appellate court with the appropriate rank in compliance with the terms of article 227.

(3) The secondment of judges shall be coordinated with their administrative heads and the secondment order shall be substantiated.

## **Section VII**

### **Appellate court**

#### **Article 101**

(1) The appellate court shall examine cases instituted following appeals and protests against the first-instance acts of regional courts in its judicial area.

(2) The appellate military court shall be one and it shall examine cases instituted following appeals and protests against acts of the military courts from the whole country.

#### **Article 102**

(1) The appellate court shall consist of judges and be headed by a chairperson.

(2) The appellate military court shall consist of judges and be headed by a chairperson.

#### **Article 103**

Based on a resolution of the general assembly of the judges at the appellate court, divisions may be set up and headed by the chairperson or his deputies.

#### **Article 104**

(1) The appellate court shall have a general assembly that shall consist of all judges. The chairpersons of the regional courts may take part in it, but not in voting.

(2) The general assembly of the appellate court shall discharge the respective powers of the general assembly of a regional court.

(3) The general assembly may not examine and adopt resolutions on matters of relevance to court business organisation, falling in the competence of the chairperson of an appellate court.

(4) (New, SG No. 1/4.01.2011, effective as of 4.01.2011) The general assembly shall also be convened on request of at least one third of all judges.

(5) (Renumbered from Paragraph 4, SG No. 1/2011, effective as of 4.01.2011) The general assembly shall take place where more than half of all judges are present and it shall adopt resolutions by a majority of more than half of the judges present.

#### **Article 105**

The appellate court shall sit in a panel of three judges, unless otherwise provided for by law.

#### **Article 106**



(1) The chairperson of the appellate court shall:

1. Provide for the overall organisational and administrative direction of the appellate court and represent it;

2. At the end of each six-month period he shall prepare and provide to the Inspectorate at the Supreme Judicial Council and to the Minister of Justice summarised information about the institution, progress and termination of cases, as well as about the acts that have been definitely repealed by higher-standing instances;

3. Prepare:

a) An annual report on the business of the appellate court, of the regional and of the district courts in its judicial area and submit it by the 31 March to the chairperson of the Supreme Court of Cassation who shall incorporate it in his annual report,

b) (Amended, SG No. 33/2009) Electronic information, enquiries and statistics based on models and within time-limits as endorsed by the Supreme Judicial Council, and submit these to the Supreme Judicial Council and the Minister of Justice;

4. At the end of each three-year period he shall distribute the judges of the appellate court by divisions;

5. He may chair judicial panels in all divisions;

6. He shall carry out in person or assign to a judge of the appellate court the carrying out of inspections into the organisation of business of the regional court judges from his judicial area;

7. Analyse and summarise the jurisprudence of the appellate court and of the regional courts from the judicial area concerned;

8. Organise the improvement of qualifications of the judges at the appellate court;

9. Convene the judges of the appellate court and of the regional courts for a discussion of the report under item 3, littera a), of the reports from inspections and of the requests for adoption of interpretative judgements and interpretative decrees;

10. Second judges subject to the conditions of Article 107;

11. Appoint and relieve from office the clerks of the court and organise the work of the various services;

12. Convoke and head the general assembly;

13. Organise the publication of effective acts on the website of the appellate court;

14. Publish the annual court business report on the website of the appellate court within a

period of up to one month following its submission to the chairperson of the Supreme Court of Cassation.

(2) The personal orders of the chairperson of an appellate court concerning the work organisation of the court shall be binding on all judges and clerks thereat.

(3) The chairperson of the Appellate Military Court shall have corresponding powers with reference to the military courts.

### **Article 107**

(1) (Amended, SG No. 33/2009) Where the position of a judge at the appellate court is vacant or a judge is prevented from discharging his office and cannot be replaced by another judge of the same court, the chairperson of the appellate court may second in his stead a judge of the regional court with the respective rank subject to the requirements of Article 227.

(2) The chairperson of the Appellate Military Court shall second judges of the military courts subject to the conditions of para 1.

(3) (New, SG No. 33/2009) Where secondment under para 1 is impracticable, the chairperson of the Supreme Court of Cassation may second an appellate judge of the area of another appellate court.

(4) (New, SG No. 33/2009) The secondment of a judge under paras 1-3 shall be coordinated with his administrative head, and the secondment order shall be reasoned.

## **Section VIIa**

**(New, SG No. 1/4.01.2011, effective as of 4.01.2011)**

### **Appellate Specialised Criminal Court**

#### **Article 107a**

(New, SG No. 1/4.01.2011, effective as of 4.01.2011) (1) The Appellate Specialised Criminal Court shall examine cases instituted on appeals and objections against acts of the specialised criminal court. Its seat shall be in Sofia.

(2) The Appellate Specialised Criminal Court shall consist of judges and shall be headed by a Chairperson.

#### **Article 107b**

(New, SG No. 1/4.01.2011, effective as of 4.01.2011) (1) When the position of a judge of the Appellate Specialised Criminal Court is vacant or a judge is prevented from discharging his/her duties and cannot be replaced by another judge from the same court, the Chairperson of the Appellate Specialised Criminal Court may second in his/her place a judge from the

specialised criminal court with the appropriate rank in compliance with the terms under article 227.

(2) When the secondment under paragraph 1 is not possible the Chairperson of the Supreme Court of Cassation may second a judge from a regional or appellate court with the appropriate rank in compliance with the terms under article 227.

(3) The secondment of the judge shall be coordinated with their administrative heads and the secondment order shall be substantiated.

#### **Article 107c**

(New, SG No. 1/4.01.2011, effective as of 4.01.2011) The provisions of articles 104-106 shall apply also to the Appellate Specialised Criminal Court.

## **Section VIII**

### **Supreme Court of Cassation**

#### **Article 108**

(1) The Supreme Court of Cassation shall be the supreme judicial instance in criminal and civil cases. Its jurisdiction shall cover the entire territory of the Republic of Bulgaria.

(2) The Supreme Court of Cassation shall be seated in Sofia.

#### **Article 109**

(1) The Supreme Court of Cassation shall consist of judges and be headed by a chairperson.

(2) There shall be a criminal, civil and a commercial college at the Supreme Court of Cassation.

(3) A college shall be headed by the chairperson or a deputy thereof who may chair judicial panels in the respective college.

(4) There shall be divisions within the colleges.

#### **Article 110**

The Supreme Court of Cassation shall sit:

1. In panels of three judges, unless otherwise provided for by law,

2. As a general assembly of the criminal, of the civil or of the commercial college when examining a request for the adoption of an interpretative judgement on criminal, civil or commercial administration of justice,

3. As a general assembly of the civil and the commercial colleges when examining a request for the adoption of an interpretative judgement on common matters of the civil and commercial administration of justice.

### **Article 111**

(1) The plenum of the Supreme Court of Cassation shall consist of all judges.

(2) The plenum shall:

1. Determine the composition of colleges and the number and composition of divisions,

2. Discuss on an annual basis the report of the chairperson of the Supreme Court of Cassation.

(3) The plenum may not examine and adopt resolutions on matters of relevance to court business organisation, falling in the competence of the Supreme Court of Cassation chairperson.

(4) The plenum of the Supreme Court of Cassation shall take place where more than half of all judges are present and it shall adopt resolutions by a majority of more than half of the judges present.

### **Article 112**

(1) The general assembly of the criminal, of the civil or of the commercial college shall consist of all judges therein.

(2) The general assembly of the civil and of the commercial colleges shall consist of the judges in these two colleges.

(3) The general assembly of each college shall take place where more than half of the judges in it are present and it shall adopt resolutions by a majority of more than half of the judges present.

(4) The general assembly of the college which has to adopt an interpretative judgement shall take place where more than two-thirds of the judges in it are present, and in cases under Article 110, item 3 - if more than two-thirds of the judges in the civil and the commercial colleges are present and it shall pass judgements by a majority of more than half of all judges from the college(s).

### **Article 113**

(1) The following shall be entitled to take part in plenum sessions:

1. The Prosecutor General or a deputy thereof at the Supreme Prosecution Office of Cassation,

2. The chairpersons of the appellate courts and other judges,
3. The chairperson or members of the Supreme Bar Council,
4. The Minister of Justice.

(2) The chairperson of the Supreme Court of Cassation shall notify the persons under para 1 of the date and time for the session.

(3) Persons under para 1 may give their opinion, but not take part in voting.

#### **Article 114**

(1) The chairperson of the Supreme Court of Cassation shall:

1. Provide organisational direction in the business of the Supreme Court of Cassation and represent it,

2. Convene and head the sessions of the general assemblies of colleges and of the plenum of the Supreme Court of Cassation or assign this task to his deputies,

3. Make requests for the adoption of interpretative judgements and of interpretative decrees,

4. Acting together with his deputies, propose to the plenum the distribution of judges by colleges and divisions,

5. May chair judicial panels from all divisions,

6. Carry out in person or assign inspections into the organisation of business of the judges of the appellate courts to a judge at the Supreme Court of Cassation,

7. (Supplemented, SG No. 33/2009) At the end of each six-month period, prepare and submit to the Supreme Judicial Council, to the Inspectorate at the Supreme Judicial Council and to the Minister of Justice summarised information about the institution, progress and termination of cases,

8. Convene the judges at the Supreme Court of Cassation and of the appellate courts to discuss reports of inspections,

9. Second judges subject to the terms of Article 115,

10. Appoint and relieve from office the clerks at the court,

11. Prepare an annual business report of the Supreme Court of Cassation and publish it on its website within one month of its completion,

12. Organise the publication of effective acts delivered by the Supreme Court of Cassation on the website thereof,

13. Make arrangements for the publication of a monthly bulletin of the Supreme Court of Cassation.

14. (New, SG No. 1/4.01.2011, effective as of 4.01.2011) Designate the chairpersons of divisions for a period not exceeding four years.

(2) The chairperson of the Supreme Court of Cassation shall prepare a summarised annual report on the application of the Act and on the business of the courts, with the exception of the administrative ones, which he shall submit to the Supreme Judicial Council no later than 30 April.

(3) The personal orders of the chairperson concerning work organisation at the court shall be binding on all judges and clerks thereat.

#### **Article 115**

(1) (Amended, SG No. 33/2009) Where the position of a judge at the Supreme Court of Cassation is vacant or a judge is prevented from discharging his office and cannot be replaced by another judge of the same court, the chairperson of the Supreme Court of Cassation may second in his stead a judge from an appellate or regional court with at least 12 years of legal service record. Such secondment shall take place subject to the requirements of Article 227.

(2) (Supplemented, SG No. 33/2009) Secondment of the judge shall be coordinated with his administrative head, and the secondment order shall be reasoned.

## **Section IX**

### **Supreme Administrative Court**

#### **Article 116**

(1) The Supreme Administrative Court shall have jurisdiction on the entire territory of the Republic of Bulgaria.

(2) The Supreme Administrative Court shall be seated in Sofia.

#### **Article 117**

(1) The Supreme Administrative Court shall consist of judges and be headed by a chairperson.

(2) There shall be colleges at the Supreme Administrative Court headed by the chairperson or a deputy thereof who may chair judicial panels in the respective college.

### **Article 118**

The Supreme Administrative Court shall sit:

1. In a panel of three judges, unless otherwise provided for by law,
2. As the general assembly of a college, when examining a request for the adoption of an interpretative judgement in administrative justice,
3. General assemblies of the colleges, when examining a request for the adoption of an interpretative judgement on general matters in administrative justice.

### **Article 119**

(1) The plenum of the Supreme Administrative Court shall consist of all judges.

(2) The plenum shall:

1. Set the number and composition of the colleges and divisions of the Supreme Administrative Court,

2. Discuss on an annual basis the business report of the chairperson of the Supreme Administrative Court.

(3) The plenum may not examine and adopt resolutions on matters concerning court business organisation, falling in the competence of the chairperson of the Supreme Administrative Court.

(4) The plenum of the Supreme Administrative Court shall take place where more than half of the judges are present and it shall adopt resolutions by a majority of more than half of the judges present.

### **Article 120**

(1) The general assembly of a college shall consist of the judges in it.

(2) A general assembly of the college shall take place where more than half of the judges in the college are present and it shall adopt resolutions by a majority of more than half of the judges present.

(3) A general assembly for the adoption of an interpretative judgements shall take place where more than two-thirds of the judges are present, and in cases under Article 118, item 3 where more than two-thirds of the judges in the colleges are present, adopting judgements by a majority of more than half of all judges in the college(s).

### **Article 121**

(1) The following shall take part in plenum sessions:

1. The Prosecutor General or a deputy thereof at the Supreme Administrative Prosecution Office,
2. Chairpersons of the administrative courts and other judges,
3. The chairperson or a member of the Supreme Bar Council,
4. The Minister of Justice.

(2) The chairperson of the Supreme Administrative Court shall notify the persons under para 1 of the date and time of the session.

(3) The persons under para 1 may give opinions, but not take part in voting.

### **Article 122**

(1) The chairperson of the Supreme Administrative Court shall:

1. Provide organisational direction in the business of the Supreme Administrative Court and represent it,
2. Convene and head the sessions of the plenum and of the general assembly of the colleges of the Supreme Administrative Court,
3. Carry out in person or assign the carrying out of inspections into the organisation of business of the judges of the administrative court to a judge of the Supreme Administrative Court,
4. Convene the judges of the Supreme Administrative Court and of the administrative courts for a discussion of the reports of inspections,
5. May chair judicial panels in all divisions,
6. Make requests for the adoption of interpretative judgements and of interpretative decrees,
7. Acting together with his deputies, propose to the plenum of the Supreme Administrative Court the distribution of judges by colleges and divisions,
8. Second judges subject to the terms of Article 123,
9. Appoint and relieve from office the clerks of the court,
10. Prepare an annual business report for the Supreme Administrative Court and publish it on the website thereof within a month of its completion,



11. (Supplemented, SG No. 33/2009) At the end of each six-month period, prepare and submit to the Supreme Judicial Council, to the Inspectorate at the Supreme Judicial Council and to the Minister of Justice summarised information about the institution, progress and termination of cases,

12. Make arrangements for the publication of effective acts on the website of the court,

13. Make arrangements for the publication of a monthly bulletin of the Supreme Administrative Court.

14. (New, SG No. 1/4.01.2011, effective as of 4.01.2011) Designate the chairpersons of divisions for a period not exceeding four years.

(2) The chairperson of the Supreme Administrative Court shall prepare a summary annual report on the application of this Act and the business of the administrative courts which he shall submit to the Supreme Judicial Council no later than 30 April.

(3) Personal orders of the chairperson concerning work organisation at the court shall be binding on all judges and clerks thereat.

### **Article 123**

(1) (Amended, SG No. 33/2009, supplemented, SG No. 1/2011, effective as of 4.01.2011) Where the position of a judge at the Supreme Administrative Court is vacant or a judge is prevented from discharging his office and cannot be replaced by another judge of the same court, the chairperson of the Supreme Administrative Court may second in his stead a judge from an administrative court or from another court with the same rank who has at least twelve years of legal service record. Such secondment shall take place subject to the requirements of Article 227.

(2) (Supplemented, SG No. 33/2009) Secondment of the judge shall be coordinated with his administrative head, and the secondment order shall be reasoned.

## **Section X**

### **Interpretative judgements and interpretative decrees**

#### **Article 124**

(1) In presence of contradictory or erroneous jurisprudence on the interpretation or application of the law, an interpretative judgement shall be adopted by the general assembly of:

1. The criminal, the civil or the commercial college of the Supreme Court of Cassation,
2. The civil or the commercial colleges of the Supreme Court of Cassation,
3. A college of the Supreme Administrative Court,

4. The colleges of the Supreme Administrative Court.

(2) In presence of contradictory or erroneous jurisprudence between the Supreme Court of Cassation and the Supreme Administrative Court, the general assembly of the judges of the respective colleges of the two courts shall adopt a joint interpretative decree.

#### **Article 125**

The chairperson of the Supreme Court of Cassation, the chairperson of the Supreme Administrative Court, the Prosecutor General, the Minister of Justice, the Ombudsman or the chairperson of the Supreme Bar Council may request the adoption of an interpretative judgement or of an interpretative decree.

#### **Article 126**

A request under Article 125 shall be filed:

1. As regards an interpretative judgement under Article 124, para 1, with the general assembly of the respective college(s),

2. As regards an interpretative decree under Article 124, para 2, with the general assemblies of the judges of the respective colleges of the Supreme Court of Cassation and of the Supreme Administrative Court.

#### **Article 127**

(1) A request shall be made in writing and be reasoned.

(2) The request shall set out:

1. The provision of the legal instrument and an outline of the disputed issues in its application,

2. The effective judicial acts embodying the contradictory or erroneous jurisprudence,

3. The specific object of the request.

#### **Article 128**

(1) The chairperson of the court with whom a request has been filed shall institute proceedings by virtue of a personal order and shall entrust them with several judge rapporteurs.

(2) By virtue of a joint personal order, the Chairperson of the Supreme Court of Cassation and the Chairperson of the Supreme Administrative Court shall institute and schedule proceedings for the adoption of an interpretative decree by the general assembly of the respective colleges of the two courts.

(3) Proceedings under paras 1 or 2 shall be scheduled within two months of the submission of a request.

#### **Article 129**

(1) The following may take part in sessions of the general assembly for the adoption of an interpretative judgement or of an interpretative decree:

1. The Prosecutor General or a deputy thereof designated by him,
2. The Minister of Justice or a deputy minister designated by him,
3. The chairperson of the Supreme Bar Council or a member thereof designated by him,

(2) The chairperson of the court with which the request has been filed may invite other lawyers, as well as the ombudsman, to participate.

(3) The persons under paras 1 and 2 shall be notified of the date for the session and shall be provided a copy of the request with the annexes thereto.

(4) Persons under paras 1 and 2 may give opinions, but not take part in voting.

(5) A record shall be kept for the session of the general assembly, which shall be signed by the presiding judge and the secretary in charge thereof.

#### **Article 130**

(1) Interpretative judgements and interpretative decrees shall be adopted and delivered within three months of receipt of a request.

(2) Interpretative judgements and interpretative decrees shall be binding on judicial and executive bodies, on local government bodies, as well as on all bodies issuing administrative acts.

#### **Article 131**

Interpretative judgements shall be published on an annual basis in a bulletin of the Supreme Court of Cassation or of the Supreme Administrative Court and interpretative decrees - in both bulletins.

## **Chapter five COURT HEARINGS**

#### **Article 132**

(1) Courts shall examine cases in public hearings.

(2) The publicity of trial may only be limited by law. By all means, a sentence shall be publicly delivered.

(3) Judges shall be held to deliver their acts in accordance with the procedure and within the term specified by law.

#### **Article 133**

(1) Hearings shall take place in the court building at the seat of the court.

(2) Under exceptional circumstances, subject to consent of the chairperson of the court to this effect, a court panel may decide to conduct a hearing in another building.

#### **Article 134**

(1) Judges and prosecutors shall attend hearing in robes.

(2) Military judges, military prosecutors and military investigating magistrates shall work in military uniform.

(3) Court assessors shall attend hearing in clothing as stipulated in the Ordinance under Article 75.

#### **Article 135**

(1) The judge presiding over a panel shall be the most senior of its members.

(2) The presiding member of the panel shall conduct the court hearing, ensuring that the courtroom is called to order, and he may sanction offenders in accordance with the procedure provided for by procedural law.

(3) Personal orders of the presiding member of a panel shall be binding on all attendants inside the courtroom. Such orders may be repealed by the court panel.

## **Chapter six**

### **PROSECUTION OFFICE**

#### **Article 136**

(1) (Supplemented, SG No. 33/2009, amended, SG No. 1/2011, effective as of 4.01.2011) The Prosecution Office of the Republic of Bulgaria shall consist of a Prosecutor General, a supreme prosecution office of cassation, a supreme administrative prosecution office, the National Investigation Service, appellate prosecution offices, appellate specialised prosecution office, appellate military prosecution offices, regional prosecution offices, regional military prosecution offices and district prosecution offices. In the structures of the regional prosecution offices there shall be regional investigation departments and in the structure of the specialised

prosecution office - an investigation department.

(2) Administrative departments shall be set up at regional prosecution offices, prosecutors therein taking part in administrative cases.

(3) (Amended, SG No. 33/2009) The Prosecution Office shall be indivisible and centralised. All prosecutors and investigating magistrates shall be subordinated to the Prosecutor General.

(4) (New, SG No. 33/2009) Each prosecutor shall be subordinated to the relevant superior, and all prosecutors and investigating magistrates shall be subordinated to the administrative head of the relevant prosecution office.

(5) (Renumbered from Paragraph 4, SG No. 33/2009) In the discharge of their office military prosecutors and investigating magistrates shall be independent from the military bodies.

### **Article 137**

The Prosecution Office shall be a legal entity funded by the state budget.

### **Article 138**

The Prosecutor General shall:

1. Head the Prosecution Office,
2. Organise and distribute work to his deputies,
3. (Supplemented, SG No. 33/2009) Appoint and relieve from office clerks at the Supreme prosecution office of cassation, the supreme administrative prosecution office, the National Investigation Service and the administration of the Prosecutor General,
4. Issue instructions and deliver guidelines with regard to the business of the Prosecution Office;
5. (New, SG No. 33/2009) Jointly with the heads of ministries and government institutions, establish specialised interagency units to support investigation under the procedural guidance of a prosecutor appointed by the Prosecutor General.

### **Article 139**

(1) The Prosecutor General shall be assisted by deputies at the supreme prosecution office of cassation and the supreme administrative prosecution office and may entrust them with certain powers given to him, unless otherwise provided for by law.

(2) The Prosecutor General and his deputies may repeal or modify the acts issued by their subordinate prosecutors, unless these have made the object of judicial review.

## **Article 140**

(Amended, SG No. 1/2011, effective as of 4.01.2011) The administrative heads of the district, regional, specialised, regional military, appellate and appellate military prosecution offices and the appellate specialised prosecution office shall organise and direct the business thereof and they shall appoint and discharge the clerks thereat.

## **Article 141**

(Amended, SG No. 33/2009)

(1) Every year by 30 April the Prosecutor General shall submit to the Supreme Judicial Council a report on the application of this Act and on the business of the Prosecution Office and of investigating bodies.

(2) (Supplemented, SG No. 1/2011, effective as of 4.01.2011) Every quarter appellate prosecutors and the head of the specialised appellate prosecution office shall provide the Prosecutor General with summarised information on the investigations of the relevant district, regional and military regional prosecution offices as well as of the specialised appellate prosecution office.

(3) The relevant Minister and the Director of the National Investigation Service shall provide the Prosecutor General with information on the investigations in pre-trial proceedings in an order and by indicators as specified by the Prosecutor General.

(4) (Amended, SG No. 82/2011, effective 1.01.2012) The procedure for the provision of information about investigations carried out by investigating police officers and investigating customs inspectors shall be stipulated in joint instructions by the Prosecutor General, the Minister of Interior and the Minister of Finance.

(5) The procedure for the provision of information about investigations carried out by military investigating police officers shall be stipulated in a joint instruction by the Prosecutor General and the Minister of Interior.

## **Article 142**

(1) The Prosecutor General in person or acting through prosecutors thereby designated shall carry out audits and control the work of all prosecutors.

(2) Prosecutors of appellate and of regional prosecution offices shall carry out audits and shall control the work of prosecutors in prosecution offices of a degree immediately lower than that of their own.

(3) (Amended, SG No. 33/2009) Every 6 months the Prosecutor General shall prepare and provide to the Supreme Judicial Council, the Inspectorate at the Supreme Judicial Council and the Minister of Justice summarised information on the institution, progress and termination of files.

### **Article 143**

(1) All acts and any action taken by a prosecutor may be appealed before the immediate higher-standing prosecution office, unless they are subject to judicial review.

(2) A prosecutor at a higher position and a prosecutor of a higher-standing prosecution office may take the actions falling in the competence of subordinate prosecutors and suspend or repeal in writing their personal orders under the circumstances provided for by law.

(3) Written personal orders given by a prosecutor at a higher position shall be binding on prosecutors subordinate to him.

(4) (New, SG No. 1/4.01.2011, effective as of 4.01.2011) The administrative heads of the district, regional, military regional prosecution offices and of the specialised prosecution office or deputies of the administrative heads authorised by them shall exercise control over compliance with the investigation deadlines and the terms of the measures for procedural coercion under the Code of Penal Procedure.

### **Article 144**

(1) A prosecutor shall direct the investigation in his capacity of supervising prosecutor.

(2) (Amended, SG No. 1/2011, effective as of 4.01.2011) Where a supervising prosecutor cannot take part in the examination of a case during trial on account of valid reasons, the respective administrative head shall designate another prosecutor to replace him/her.

(3) (Amended, SG No. 69/2008) The district or regional prosecutor concerned shall provide an annual written opinion on the work of an investigating police officer, sending a copy thereof to the chief investigating police officer.

### **Article 145**

(1) In discharging his functions stipulated by the law, a prosecutor may:

1. Obtain documents, information, explanations, expert opinions and other material,
2. Carry out inspections in person,

3. In presence of data conducive to the existence of criminal offences or of illegal acts and actions, entrust the bodies concerned with the carrying out of inspections and audits within a term imparted by him, be provided with their conclusions and, upon request, with all supporting material,

4. Summons citizens or authorised representatives of legal entities, being able to order them brought by coercion upon their failure to appear in the absence of valid reasons,

5. Forward material to a competent body, if he has found that grounds are present to enforce

liability or to apply coercive administrative measures, which he may not take in person,

6. Apply the measures envisaged by law in the presence of data conducive to the existence of an impending publicly actionable criminal or another legal offence.

(2) Personal orders of a prosecutor issued in compliance with his competence and with the law shall be binding on state bodies, officials, legal entities and the citizens.

(3) State bodies, the legal entities and the officials shall be obligated to provide assistance to prosecutors in the discharge of their powers and allow them access of the premises and places concerned.

(4) As part of their competence and in accordance with the law, prosecutors may deliver binding written personal orders onto police bodies.

(5) A prosecutor shall protest and request that illegal acts are repealed or modified within the term and in accordance with the procedure under the law. He may suspend the execution of an act until his protest is examined by the body concerned.

#### **Article 146**

(1) In the exercise of supervision to the purpose of ensuring legality in the enforcement of sentences, of other coercive measures and inside detention centres, a prosecutor may:

1. Visit, without prior authorisation from the administration, detention centres, prisons and institutions in which other coercive measures are served, as well as to check the documents on the basis of which individuals are detained,

2. Converse alone with detainees and the individuals placed in such institutions,

3. Examine proposals, alerts, complaints and requests in relation to the service of sentences and of other coercive measures provided for by law,

4. Order in writing the bodies in charge of enforcing sentences and the administration of institutions for the service of other coercive measures to notify him of certain actions, acts and events.

(2) In order to remove and prevent any violations under para 1, a prosecutor shall:

1. Immediately release anyone illegally detained in prison or in an institution for the service of other coercive measures,

2. Deliver binding written personal orders for the removal of violations,

3. Suspend the execution of illegal written orders and personal orders of officials and request that these are repealed in accordance with the relevant procedure.



### **Article 147**

(Amended, SG No. 33/2009)

In presence of a service need:

1. An appellate prosecutor, in respect of his area, may second prosecutors subject to the terms set hereunder with reference to the secondment of judges;
2. A regional prosecutor, in respect of his area, may second prosecutors and investigating magistrates subject to the terms set hereunder with reference to the secondment of judges;
3. The Prosecutor General may second prosecutors and investigating magistrates from all over Bulgaria for a period of up to one year.

## **Chapter seven**

### **INVESTIGATION BODIES**

**(Title amended, SG No. 33/2009)**

### **Article 148**

(Amended, SG No. 33/2009)

(1) (Amended, SG No. 1/2011, effective as of 4.01.2011) The investigation bodies shall be the National Investigation Service, the regional investigation departments and the investigation department at the specialised prosecution office.

(2) The investigation department at Sofia City prosecution office shall have the status of a regional investigation department.

### **Article 149**

(Amended, SG No. 33/2009)

(1) The National Investigation Service shall consist of investigating magistrates.

(2) The National Investigation Service shall have specialised departments for investigation on cases of particular factual and legal complexity, on cases for crimes committed abroad, on requests for legal aid, as well as for investigation on cases in other circumstances, as provided for by law.

### **Article 150**

(1) (Previous Article 150, amended, SG No. 33/2009) The National Investigation Service shall be headed by the Prosecutor General directly or through the Director, who shall also be the

Prosecutor General's deputy in investigations.

(2) (New, SG No. 33/2009) The Director of the National Investigation Service shall provide administrative and organisational direction to the investigating magistrates and officers at the National Investigation Service and methodological guidance to the investigating magistrates from regional investigation departments at regional prosecution offices.

### **Article 151**

(Amended, SG No. 33/2009, SG No. 1/2011, effective as of 4.01.2011)

(1) The regional investigation departments at the regional prosecution offices and the investigation department of the specialised prosecution office shall consist of investigating magistrates.

(2) The work place of each investigating magistrate and officer at the regional investigation departments and at the investigation department of the specialised prosecution office shall be determined by the administrative heads of the relevant prosecution offices.

### **Article 152**

(Amended, SG No. 33/2009, SG No. 1/2011, effective as of 4.01.2011)

The investigating magistrates at the regional investigation departments of the regional prosecution offices and at the investigation department of the specialised prosecution office shall carry out investigations in all cases assigned to them by the administrative head of the respective prosecution office.

### **Article 153**

(Amended, SG No. 33/2009)

The specialised departments at the national Investigation Service shall be headed by department heads, who shall be appointed by the Prosecutor General, have a rank equal to that of a prosecutor heading a department at the Supreme Prosecution Office of Cassation, and receive remuneration equal to that of a prosecutor heading a department at the Supreme Prosecution Office of Cassation.

(2) The regional investigation departments at the regional prosecution offices shall be headed by department heads, who shall be appointed by the administrative heads of the regional prosecution offices, shall have a rank equal to that of a prosecutor heading a department at a regional prosecution office, and shall receive remuneration equal to that of a deputy administrative head of a regional prosecution office.

(3) (New, SG No. 1/4.01.2011, effective as of 4.01.2011) The investigation department of the specialised prosecution office shall be headed by a head of department who shall be appointed by the administrative head of the specialised prosecution office, shall have a rank of a prosecutor

heading a department in an appellate prosecution office and shall receive remuneration equal to the remuneration of a deputy administrative head of the specialised prosecution office.

(4) (Renumbered from Paragraph 3, amended, SG No. 1/2011, effective as of 4.01.2011)  
The heads of specialised departments at the National Investigation Service and the heads of regional investigation departments at regional prosecution offices and the head of the investigation department of the specialised prosecution office shall:

1. provide administrative and organisational direction to the investigating magistrates at the department;

2. at the end of each month, prepare and provide to the relevant administrative head of the prosecution office information on the institution, progress and termination of files;

3. prepare semi-annual and annual reports on the department's business and provide such reports to the relevant administrative head of the prosecution office.

#### **Article 154**

Personal orders of the investigating magistrates concerning investigation shall be binding on all state bodies, legal entities and the citizens.

## **Chapter eight**

### **OATH**

#### **Article 155**

Every judge, upon entering office for the first time, shall take the following oath: "I swear by the name of the people that I shall accurately apply the Constitution and the laws of the Republic of Bulgaria, discharging the duties incumbent on me guided by my conscience and inner convictions, being impartial, objective and equitable, contributing to heightening the prestige of the profession, keeping the secret of deliberations, never forgetting that for all things I do I shall be answerable to the law. I have been sworn!"

#### **Article 156**

Every prosecutor and investigating magistrate shall take the following oath upon entering office for the first time: "I swear by the name of the people that I shall accurately apply the Constitution and the laws of the Republic of Bulgaria, discharging the duties incumbent on me guided by my conscience and inner convictions, being impartial, objective and equitable, contributing to heightening the prestige of the profession, keeping the secret of my office, never forgetting that for all things I do I shall be answerable to the law. I have been sworn!"

#### **Article 157**

(1) The oath shall be taken before the judges, prosecutors or investigating magistrates of the

judicial system body concerned.

(2) Once the oath has been taken, an oath form shall be signed.

#### **Article 158**

Every state enforcement agent and recordation judge shall sign an oath form upon entering office for the first time with the following text of the oath: "I swear by the name of the people that I shall accurately apply the Constitution and the laws of the Republic of Bulgaria, discharging the duties of my office honestly and in good faith, keeping the secret of cases entrusted to me, never forgetting that for all things I do I shall be answerable to the law. I have been sworn!"

#### **Article 159**

An individual refusing to take oath or sign an oath form may not enter office.

## **Chapter nine STATUS OF THE JUDGES, PROSECUTORS AND INVESTIGATING MAGISTRATES**

### **Section I**

### **Appointment and relief from office**

#### **Article 160**

A judge, prosecutor, investigating magistrate, administrative head and a deputy of an administrative head, with the exception of the chairperson of the Supreme Court of Cassation, of the chairperson of the Supreme Administrative Court and of the Prosecutor General, shall be appointed, promoted, demoted, transferred and relieved from office by resolution of the Supreme Judicial Council.

#### **Article 161**

(1) (Amended, SG No. 33/2009, SG No. 1/2011, effective as of 4.01.2011) After the entry into force of the resolution for appointment, promotion, demotion and transfer of a judge, prosecutor and an investigating magistrate, the Supreme Judicial Council shall inform the person who shall occupy the position within one month.

(2) (Amended, SG No. 33/2009) Entry in office shall be certified in writing before the administrative head of the judicial system body concerned.

(3) On the basis of the resolution of the Supreme Judicial Council for appointment, promotion, demotion and transfer of a judge, prosecutor and an investigating magistrate the

administrative head shall issue an act on the occupancy of the position which shall contain:

1. The name of the judicial system body in which the position is occupied,
2. The legal grounds for the occupation of the said position,
3. The name of the position and the rank associated therewith,
4. The amounts of the basic and of the additional remuneration,
5. The date of entry in office.

(4) A judge, prosecutor and an investigating magistrate shall commence discharging their official duties as of the date of entering office.

(5) A person appointed as a military judge, military prosecutor or military investigating magistrate shall be admitted to permanent military service and be given a title as a commissioned officer.

#### **Article 162**

An individual with only a Bulgarian citizenship may be appointed as a judge, prosecutor and investigating magistrate, provided he also meets the following conditions:

1. has a higher education in the specialty area of law,
2. has undergone the internship herein provided for and obtained legal competency,
3. (Amended, SG No. 33/2009, SG No. 1/2011, effective as of 4.01.2011) has the required moral and professional characteristics complying with the Code of Ethical Behaviour of Bulgarian magistrates,
4. has not been sentenced to imprisonment for a deliberate criminal offence, notwithstanding rehabilitation,
5. (New, SG No. 103/2009, effective 29.12.2009) is not an elected member of the Supreme Judicial Council who has been relieved from office on disciplinary grounds due to impairing the prestige of the judiciary;
6. (Renumbered from Item 5, SG No. 103/2009, effective 29.12.2009) Does not suffer from a mental illness.

#### **Article 163**

There shall be the following positions for judges, prosecutors and investigating magistrates:

1. A judge at the Supreme Court of Cassation, a judge at the Supreme Administrative Court,

a prosecutor at the Supreme Prosecution Office of Cassation, a prosecutor at the Supreme Administrative Prosecution Office and an investigating magistrate at the National Investigation Service,

2. (Amended, SG No. 1/2011, effective as of 4.01.2011) A judge at an appellate court, a judge at a military appellate court, a judge at the appellate specialised criminal court, a prosecutor at an appellate prosecution office, a prosecutor at a military appellate prosecution office and a prosecutor at the appellate specialised criminal prosecution office;

3. (Amended, SG No. 33/2009, SG No. 1/2011, effective as of 4.01.2011) A judge at a regional court, a judge at an administrative court, a judge at a military court, a judge at the specialised criminal court, a prosecutor at a regional prosecution office, a prosecutor at a regional military prosecution office, a prosecutor at the specialised criminal prosecution office, an investigating magistrate at a regional investigation department and an investigating magistrate at the investigation department of the specialised prosecution office,

4. A judge at the district court and a prosecutor at the district prosecution office,

5. (Amended, SG No. 33/2009) A junior judge and a junior prosecutor.

#### **Article 164**

(1) (Amended, SG No. 33/2009, SG No. 42/2009, supplemented, SG No. 32/2011, effective 1.01.2012) An individual with at least three years of service record shall be appointed as a judge at a district court and a prosecutor at a district prosecution office. To be appointed as a judge at a district court or a prosecutor at a district prosecution office, a junior judge or junior prosecutor respectively shall have served for at least two years and nine months.

(2) (Amended and supplemented, SG No. 33/2009) An individual with at least 8 years of service record shall be appointed as a judge with a regional court, a prosecutor with a regional prosecution office and an investigating magistrate with a regional investigation department.

(3) (New, SG No. 1/4.01.2011, effective as of 4.01.2011, declared unconstitutional with Judgment No.10 by the Constitutional Court of the Republic of Bulgaria, in its part regarding the words "judge or prosecutor", SG No. 93/2011)

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A judge or a prosecutor with at least ten years of service record of which at least five years as a judge, prosecutor or investigating magistrate on criminal cases shall be appointed as a judge at the specialised criminal court.

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(4) (Renumbered from Paragraph 3, SG No. 1/2011, effective as of 4.01.2011) An individual with at least eight years of service record shall be appointed as a judge with an administrative court.

(5) (Renumbered from Paragraph 4, SG No. 1/2011, effective as of 4.01.2011) An individual with at least ten years of service record shall be appointed as a judge at an appellate court and as a prosecutor at an appellate prosecution office.

(6) (New, SG No. 1/4.01.2011, effective as of 4.01.2011, declared unconstitutional with Judgment No.10 by the Constitutional Court of the Republic of Bulgaria, in its part regarding the words "judge or prosecutor at least", SG No. 93/2011)

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A judge or a prosecutor with at least twelve years of service record of which at least eight years as a judge, prosecutor or investigating magistrate on criminal cases shall be appointed as a judge at the appellate specialised criminal court and a prosecutor at the appellate specialised prosecution office.

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(7) (Renumbered from Paragraph 5, SG No. 1/2011, effective as of 4.01.2011) An individual with at least twelve years of service record shall be appointed as a judge at the Supreme Court of Cassation and at the Supreme Administrative Court, as a prosecutor at the Supreme Prosecution Office of Cassation and at the Supreme Administrative Prosecution Office and as an investigating magistrate at the National Investigation Service.

(8) (Amended, SG No. 69/2008, renumbered from Paragraph 6, amended, SG No. 1/2011, effective as of 4.01.2011, amended and supplemented, SG No. 82/2011, effective 1.01.2012) The service record at a position or in a job for which higher legal education is required, including service record of individuals with higher legal education at the position of investigating police officer with higher education in law in the system of the Ministry of Interior, investigating police officer with higher education in law in the system of the Ministry of Defence or investigating customs inspector with the Customs Agency shall count toward the service record under paras 1 - 7.

(9) (Amended, SG No. 33/2009, renumbered from Paragraph 7, amended, SG No. 1/2011, effective as of 4.01.2011) Service record at a position requiring higher legal education with the institutions and bodies of the European Union, with international justice administration bodies or organisations set up by virtue of an international treaty to which the Republic of Bulgaria is a party, shall also count as service record under paras 1 - 7.

(10) (New, SG No. 1/4.01.2011, effective as of 4.01.2011) As service record under paragraphs 1-7 shall also count the record as a trainee lawyer if the person has worked under an employment contract at the Ministry of Justice.

## **Article 165**

(1) A judge, prosecutor or an investigating magistrate shall be relieved from office upon:

1. Turning 65 years of age,
2. Resignation,
3. Entry into force of a sentence to imprisonment for a deliberate criminal offence,
4. A lasting de facto inability to discharge duties for more than one year,
5. A disciplinary relief from office imposed as a disciplinary sanction,
6. A resolution of the Supreme Judicial Council refusing the status of tenure,
7. Incompatibility with positions and business under Article 195, para 1,
8. (Repealed, SG No. 33/2009).
9. Reinstatement in office following illegal relief therefrom.

(2) (Amended, SG No. 33/2009, repealed, SG No. 32/2011, effective 1.01.2012)

(3) A judge, prosecutor and an investigating magistrate who have acquired tenure shall only be relieved from office on the grounds of Article 129, para 3 of the Constitution of the Republic of Bulgaria, as well as under the circumstances of para 1, item 7.

(4) A judge, prosecutor and an investigating magistrate who have gone into retirement by virtue of para 1, item 1 shall not be entitled to occupying an office with judicial system bodies.

### **Article 166**

(1) (Amended, SG No. 33/2009) A judge, prosecutor or investigating magistrate shall resign from office with at least a one-month advance notice.

(2) Within the period of the advance notice a judge, prosecutor or investigating magistrate shall be obligated to draft all acts in the cases and files assigned to him, no new cases and files being assigned thereto.

(3) (New, SG No. 33/2009, amended, SG No. 1/2011, effective as of 4.01.2011) A judge, prosecutor or investigating magistrate may not be relieved from office under Article 165, para 1, item 2 if disciplinary proceedings are instituted against him/her until the proceedings are concluded.

### **Article 167**

(1) The following shall be administrative heads of the judicial system bodies:

1. (Supplemented, SG No. 33/2009) The Chairperson of the Supreme Court of Cassation, the Chairperson of the Supreme Administrative Court, the Prosecutor General and the Director of



the National Investigation Service, who shall also be the deputy of the Prosecutor General in investigations,

2. (Amended, SG No. 1/2011, effective as of 4.01.2011) A chairperson of an appellate court, of the appellate specialised criminal court and of the appellate military court, an appellate and an appellate military prosecutor and a head of the appellate specialised prosecution office,

3. (Amended, SG No. 33/2009, amended, SG No. 1/2011, effective as of 4.01.2011) A chairperson of a regional, an administrative, the specialised criminal and a military court, a regional and a regional military prosecutor and a head of the appellate specialised prosecution office,

4. A chairperson of a district court and a district prosecutor.

(2) (New, SG No. 42/2009) The administrative heads shall assume positions within 14 days following the passage of the resolution of the Supreme Judicial Council. Interested parties may appeal the resolution of the Supreme Judicial Council within 14 days following its passage. The appeal shall not suspend the enforcement thereof, unless the court rules otherwise.

(3) (Renumbered from Paragraph 2, SG No. 42/2009) The term of office of an administrative head shall start running on the date of his entry in office.

### **Article 168**

(1) In the discharge of his business an administrative head shall be assisted by a deputy.

(2) (Amended, SG No. 1/2011, effective as of 4.01.2011) The deputy of an administrative head shall be appointed by the Supreme Judicial Council at the proposal of the administrative head.

(3) (New, SG No. 1/4.01.2011, effective as of 4.01.2011) When adopting the resolution on appointment the Supreme Judicial Council shall verify that the nominated candidate complies with the requirements of article 169, paragraph 2. The verification shall be carried out on the basis of the documents submitted by the candidate and the documents contained in the service file.

(4) (New, SG No. 1/4.01.2011, effective as of 4.01.2011) The Supreme Judicial Council may reject with a resolution the appointment of the nominated candidate for deputy administrative head if he/she does not comply with the requirements of article 169, paragraph 2.

(5) (New, SG No. 1/4.01.2011, effective as of 4.01.2011) The deputy administrative head shall assume office within 14 days after the entry into force of the resolution of the Supreme Judicial Council.

(6) (Renumbered from Paragraph 3, amended, SG No. 1/2011, effective as of 4.01.2011) In all cases of absence the administrative head shall assign by virtue of a written order his deputy with the discharge of his functions or part thereof. Where the administrative head has not

designated a deputy, his functions shall be discharged by one of his deputies in the order of seniority.

(7) (New, SG No. 1/4.01.2011, effective as of 4.01.2011) Where the administrative head has no deputy in all cases of absence he/she shall assign by virtue of a written order a judge, prosecutor or investigating magistrate from the respective body with the discharge of his functions or part thereof. Where the administrative head has not designated a deputy, his functions shall be discharged by the judges, prosecutors or investigating magistrates from the respective body in the order of seniority.

### **Article 169**

(Amended, SG No. 1/2011, effective as of 4.01.2011) (1) A judge, prosecutor or an investigating magistrate with high professional and moral characteristics and a positive overall score "very good" or "good" from the last periodic appraisal shall be appointed as an administrative head, with the exception of the Chairperson of the Supreme Court of Cassation, the Chairperson of the Supreme Administrative Court and the Prosecutor General.

(2) A judge, prosecutor or an investigating magistrate with high professional and moral characteristics and a positive overall score "very good" or "good" from the last periodic appraisal shall be appointed as a deputy administrative head.

### **Article 170**

(1) (Amended, SG No. 33/2009, SG No. 1/2011, effective as of 4.01.2011) An individual with at least five years of legal service record who complies with the requirements of article 169, paragraph 1 shall be appointed as the administrative head of a district court and of a district prosecution office.

(2) (New, SG No. 33/2009) An individual meeting the requirements for length of service under Article 164, paras 2 and 4 and the requirements of Article 169. para 1 respectively shall be appointed as the administrative head of a regional or administrative court and of a regional prosecution office. An individual with at least twelve years of legal service record under Article 164, paras 2-4, of which at least eight years as a judge or a prosecutor in criminal cases and who complies with the requirements of Article 169, para 1 shall be appointed as administrative head of the specialised criminal court and of the specialised prosecution office.

(3) (Renumbered from Paragraph 2, SG No. 33/2009) An individual meeting the requirements of Article 164, para 5 and the requirements of Article 169, paragraph 1 shall be appointed as the administrative head of the National Investigation Service, the appellate court and the appellate prosecution office. A judge or a prosecutor who has at least twelve years of legal service record under Article 164, paras 2-6 which at least eight years as a judge or a prosecutor in criminal cases and who complies with the requirements of Article 169, paragraph 1 shall be appointed as administrative head of the appellate specialised criminal court and of the appellate specialised prosecution office.

(4) An individual with high professional and moral characteristics and who complies with

the requirements for length of service under Article 164, para 7 shall be appointed as administrative head of the Supreme Court of Cassation, of the Supreme Administrative Court and as Prosecutor General.

### **Article 171**

(1) (Supplemented, SG No. 33/2009, SG No. 1/2011, effective as of 4.01.2011, declared unconstitutional with Judgment No. 10 by the Constitutional Court of the Republic of Bulgaria, in its part regarding the words "open ballot", SG No. 93/2011)

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The Supreme Judicial Council shall adopt a resolution for appointment of an administrative head or a deputy thereof by open ballot and a majority of more than one half of its members. The resolution shall be substantiated.

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(2) Where none of the nominated candidates has gathered the required majority, election shall be pursued in respect to those two of them who have gathered the largest number of votes.

### **Article 172**

(1) (Amended, SG No. 33/2009, amended and supplemented, SG No. 1/2011, effective as of 4.01.2011) The positions of chairperson of a division or of a college at the court, head of department at the prosecution office, head of a specialised department at the National Investigation Service and head of a regional investigation department at the regional prosecution office and head of department at the specialised prosecution office shall be administrative positions.

(2) Chairpersons of divisions shall administer the cases in said division and may preside over judicial panels therein.

(3) (Amended, SG No. 33/2009, amended and supplemented, SG No. 1/2011, effective as of 4.01.2011) Chairpersons of divisions at the court, heads of departments at the prosecution office, heads of specialised departments at the National Investigation Service and heads of regional investigation departments at regional prosecution offices shall be appointed by the relevant administrative head and the head of the investigation department of the specialised prosecution office.

### **Article 173**

(1) The procedure for election of candidates as Chairperson of the Supreme Court of Cassation, Chairperson of the Supreme Administrative Court and as Prosecutor General shall be opened by the Supreme Judicial Council no earlier than two months and no later than one month prior to the expiry of the term of office or within 7 days of occurrence of any circumstance under Article 175, para 1.

(2) Nominations can be made by no less than one-fifth of Supreme Judicial Council members, as well as by the Minister of Justice.

(3) Nominations shall be made at the two consecutive sessions following that in which a resolution to open the procedure is adopted.

(4) A proposal shall be made in writing and a service record abstract for the candidate shall be attached to it based on a model endorsed by the Supreme Judicial Council.

(5) Proposals shall be submitted for examination to the Supreme Judicial Council by the acting chairperson no later than 7 days prior to the session at which these must be examined. The Supreme Judicial Council shall hear candidates in the alphabetical order.

(6) The Supreme Judicial Council shall adopt a resolution for the election of a candidate by a majority of more than two-thirds of its members by secret ballot.

(7) Where in the first round of voting no candidate has gathered votes by more than two-thirds of Supreme Judicial Council members, the election shall be pursued in respect to the two candidates who have gathered the largest number of votes.

(8) In case a new proposal is made where the President of the Republic of Bulgaria has refused to appoint a candidate nominated by the Supreme Judicial Council, election shall take place in pursuance of paras 1 - 7.

#### **Article 174**

(1) The Director of the National Investigation Service shall be elected in pursuance of the procedure under Article 173, paras 2 - 5 and 7 by a majority of more than half of Supreme Judicial Council members.

(2) The term of office of the Director of the National Investigation Service shall start running on the day of his entry in office.

#### **Article 175**

(1) (Amended, SG No. 1/2011, effective as of 4.01.2011) An administrative head shall be relieved from office ahead of schedule on the grounds of Article 129, para 3 of the Constitution of the Republic of Bulgaria.

(2) (Amended, SG No. 1/2011, effective as of 4.01.2011) An administrative head shall be relieved from office ahead of schedule also in cases where he has been relieved from office as a judge, prosecutor or investigating magistrate on the grounds of Article 129, para 3, items 2 - 5 of the Constitution of the Republic of Bulgaria.

(3) A proposal for the relief from office ahead of schedule of an administrative head, with the exception of the chairperson of the Supreme Court of Cassation, the chairperson of the

Supreme Administrative Court and the Prosecutor General, shall be made in writing:

1. No earlier than two months and no later than one month prior to the expiry of the term of office or of his turning 65 years of age,

2. Within three days of gaining knowledge of the circumstances under Article 129, para 3, items 2 - 5 of the Constitution of the Republic of Bulgaria.

(4) In the event of termination of the term of office ahead of schedule of an administrative head, an individual shall be appointed in his stead whose term of office shall start running on the date of his assuming office. Until the entry in office of a new administrative head, his functions shall be discharged by a deputy designated by the Supreme Judicial Council.

(5) (Supplemented, SG No. 1/2011, effective as of 4.01.2011) The grounds for the relief from office ahead of schedule of the Chairperson of the Supreme Court of Cassation, of the Chairperson of the Supreme Administrative Court and of the Prosecutor General shall be established by the Supreme Judicial Council by virtue of a resolution adopted in pursuance of the procedure under Article 173, which thereafter shall be proposed to the President of the Republic of Bulgaria. The President may not refuse the relief after the second proposal.

(6) The grounds for relief from office ahead of schedule of the Director of the National Investigation Service shall be established by the Supreme Judicial Council by virtue of a resolution adopted in pursuance of the procedure under Article 173, paras 2 - 5 and 7.

(7) (New, SG No. 1/4.01.2011, effective as of 4.01.2011) A deputy administrative head may be relieved from office by virtue of a resolution of the Supreme Judicial Council at proposal of the administrative head. A deputy administrative head shall be relieved from office also in the cases when he/she has been relieved from office as a judge, prosecutor or an investigating magistrate on the grounds of Article 129, para 3 of the Constitution of the Republic of Bulgaria.

## **Section II**

### **Competitions for Junior Judges and Junior Prosecutors for Initial Appointment to the Judiciary Bodies (Title amended, SG No. 1/2011, effective as of 4.01.2011)**

#### **Article 176**

(1) For recruitment to positions at judicial system bodies centralised competitions for the following positions shall be carried out:

1. Junior judges and junior prosecutors,
2. Initial appointment.

(2) (Amended, SG No. 32/2011, effective 19.04.2011) The competition under para 1, item 1

shall take place once every year, being announced in January and held in April in the relevant year.

(3) (Amended, SG No. 32/2011, effective 19.04.2011) The competition under para 1, item 2 shall take place at least once every year, no later than two months of its announcement.

#### **Article 177**

(Amended, SG No. 33/2009)

(1) The available positions for junior judges and junior prosecutors shall be planned by the Supreme Judicial Council at the proposal of the administrative heads of judicial system bodies for each upcoming calendar year.

(2) The positions planned for junior judges and junior prosecutors may not be transformed after the announcement of the competition.

(3) Vacated positions for junior judges and junior prosecutors may not be transformed into positions for judges and prosecutors.

#### **Article 178**

(1) (Amended, SG No. 33/2009) The Supreme Judicial Council shall designate, by a draw of lots, 20 percent of the number of vacant positions in court, the prosecution office and investigation bodies for occupation through a competition for initial appointment.

(2) (Amended, SG No. 33/2009) The percentages under para 1 shall be separately specified for each of the levels in court, the prosecution office and investigation bodies.

(3) (New, SG No. 1/4.01.2011, effective as of 4.01.2011) The vacant positions under para 1 shall be announced together with the announcement of the vacant positions in the judiciary pursuant to Article 188.

(4) (New, SG No. 1/4.01.2011, effective as of 4.01.2011, declared unconstitutional with Judgment No.10 by the Constitutional Court of the Republic of Bulgaria, SG No. 93/2011)

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The provision of para 1 shall not apply to vacant positions in the specialised courts and prosecution offices.

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#### **Article 179**

The positions for junior judges, junior prosecutors, junior investigating magistrates and the available positions for initial appointment shall be announced by the Supreme Judicial Council

through a publication in the State Gazette, in a central daily and on the website of the Supreme Judicial Council.

### **Article 180**

(1) The Supreme Judicial Council shall announce a separate competition for each judicial system body through publication of the resolution in the State Gazette, in a central daily and on the website of the Supreme Judicial Council.

(2) The announcement under para 1 shall set out:

1. The number and type of positions and the judicial system bodies to which these refer,
2. The required documents, the deadline and location for their submission,
3. The programme of the competition,
4. The date, time and venue for the competition.

### **Article 181**

(1) An individual meeting the requirements of Article 162 may take part in the competition for junior judges and junior prosecutors.

(2) An individual may take part in a competition for initial appointment if he meets the requirements of Article 162 and has the service record under Article 164 required for the position for which the competition is announced.

(3) (Amended, SG No. 1/2011, effective as of 4.01.2011) An application for participation in the competition shall be filed with the administration of the Supreme Judicial Council to which the following documents shall be attached:

1. a detailed CV signed by the candidate;
2. a notarised copy of the diploma for graduated higher education in law;
3. a notarised copy of a certificate for acquired right to practice law;
4. a previous convictions certificate issued for the participation in a competition under this act;
5. a medical certificate issued as a result of a conducted medical examination that the person does not suffer from a mental condition;
6. a notarised copy of the employment/service or social insurance book;
7. other documents which according to the discretion of the candidate are relevant to his/her

professional or moral characteristics.

### **Article 182**

(1) (Amended, SG No. 1/2011, effective as of 4.01.2011) The Commission on proposals and appraisal of judges, prosecutors and investigating magistrates shall inspect the documents and admit to participation in the competition all candidates satisfying the conditions under Article 181.

(2) The lists of individuals admitted and not admitted to participation in the competition shall be announced on the website of the Supreme Judicial Council at least 7 days prior to the date of the competition.

(3) The lists of individuals not admitted to participation shall also specify the grounds for non-admission.

### **Article 183**

(1) The competition shall be carried out by a competition commission consisting of a chairperson, four regular and two substitute members. Depending on the number of candidates, the Supreme Judicial Council may set up more than one commission.

(2) At least one habilitated legal scientist shall be a regular commission member.

(3) Members of an initial appointment commission shall have a rank equal to or higher than that of the announced available position.

(4) The names of each commission members shall be designated in a resolution of the Supreme Judicial Council.

### **Article 184**

(1) The competition shall insist in a written and verbal examination, marks being given on a scale of six.

(2) The written examination shall be anonymous and shall consist in a case study pertaining to the respective branch of law.

(3) The results of the written examination shall be posted at a public location inside the building of the Supreme Judicial Council and on its website three days after the commission who had carried out the examination has signed the record of proceedings therefor.

(4) A candidate who has passed the written examination with a mark not lower than very good 4.5 shall be admitted to verbal examination.

(5) The verbal examination shall take place no earlier than 7 days of the announcement under para 3.



## **Article 185**

(1) The competition commission shall announce the results of the oral examination within 7 days thereof at a public location inside the building of the Supreme Judicial Council and on its website.

(2) (Repealed, SG No. 33/2009).

(3) (Repealed, SG No. 33/2009).

**Article 186** (Supplemented, SG No. 30/2009, amended, SG No. 1/2011, effective as of 4.01.2011, SG No. 32/2011, effective 1.01.2012) (1) The competition commission shall rank the participants in the competition under Article 176, Paragraph 1, Item 1 by their score, which shall be calculated as the sum of their scores from the written and the oral examinations. In case of equal scores the competition commission shall give preference to the candidate with a higher overall score from his/her state examinations.

(2) The Commission for Professional Ethics and Prevention of Corruption shall provide the Supreme Judicial Council with information on the moral qualities of candidates ranked for the competition positions and shall draft an opinion on each candidate.

(3) The Commission on nomination and appraisal of judges, prosecutors and investigating magistrates shall, based on the ranking referred to in Paragraph 1 and the opinion referred to in Paragraph 2, propose to the Supreme Judicial Council to approve the junior judge and junior prosecutor candidates.

(4) The Supreme Judicial Council shall adopt a resolution approving the candidates, subject to verifying that the candidates ranked satisfy the requirements of Article 162. Such verification shall be based on all documents concerning the candidate as provided by the latter and by the Commission for Professional Ethics and Prevention of Corruption.

(5) The Supreme Judicial Council shall not approve a candidate which it has found not to satisfy the requirements of Article 162, and shall involve the next ranking candidate in his/her stead.

(6) Approved junior judge and junior prosecutor candidates shall explicitly state before the Supreme Judicial Council their willingness to be appointed at the relevant position, in an order determined by their scores as referred to in Paragraph 1, each next ranking candidate choosing between the positions remaining unoccupied. Any candidate failing to express his/her wish shall be replaced by the next ranking candidate approved.

(7) The Supreme Judicial Council shall, by a resolution, adopt the final list of approved junior judge and junior prosecutor candidates for the relevant positions in accordance with their wishes as stated.

(8) Within one month after the resolution referred to in Paragraph 7 takes effect, each

candidate shall file a declaration on the circumstances referred to in Article 195, Paragraph 1.

(9) The resolution referred to in Paragraph 7 shall be sent to the National Institute of Justice to perform the training referred to in Article 249, Paragraph 1, Item 1.

**Article 186a.** (New, SG No. 32/2011, effective 1.01.2012) (1) The competition commission shall rank candidates for initial appointment by their score from the competition, which shall be calculated as the sum of their scores from the written and the oral examinations. In case of equal scores the competition commission shall give preference to the candidate with a higher overall score from his/her state examinations

(2) The Commission for Professional Ethics and Prevention of Corruption shall provide the Supreme Judicial Council with information on the moral qualities of the first three candidates ranked for the relevant vacant position and shall draft an opinion on each candidate.

(3) The Commission on nomination and appraisal of judges, prosecutors and investigating magistrates shall, based on the ranking referred to in Paragraph 1 and the opinion referred to in Paragraph 2, submit a proposal to the Supreme Judicial Council on initial appointment to the relevant judiciary bodies. Within 7 days after the proposal referred to in the first sentence is submitted, each candidate shall file a declaration on the circumstances referred to in Article 195, Paragraph 1.

(4) The Supreme Judicial Council shall adopt a resolution for the appointment of the candidates according to the ranking until the positions for which the competition was announced are filled in after three consecutive rankings.

(5) When adopting the resolution under paragraph 4, the Supreme Judicial Council shall verify whether the candidate ranked first complies with the requirements of Articles 162 and 164. The verification shall be done on the basis of the documents presented by the candidate. In the course of the verification the Supreme Judicial Council shall take into account also the opinion of the Commission for Professional Ethics and Prevention of Corruption.

(6) The Supreme Judicial Council shall, by a resolution, reject the appointment of a candidate whom it has found not to not comply with the requirements of Articles 162 and 164.

**Article 187** (1) (Amended, SG No. 1/2011, effective as of 4.1.2011, SG No. 32/2011, effective 1.01.2012) Any interested party may appeal the resolution of the Supreme Judicial Council under Article 186, Paragraph 7 and Article 186a, Paragraph 6 within seven days of its adoption.

(2) (Repealed, SG No. 42/2009)

(3) The Supreme Administrative Court shall examine the appeal as a three-member panel and its judgement shall be final.

## **Section IIa**

# **Competition for Promotion and for Transfer of a Judge, Prosecutor and Investigating Magistrate within the Judiciary Bodies. Election of Administrative Heads of the Judiciary Bodies.**

**(New title, SG No. 1/2011, effective as of 4.01.2011)**

## **Article 188**

(1) (New, SG No. 1/4.01.2011, effective as of 4.01.2011) The administrative heads shall notify the Supreme Judicial Council of the vacant positions in the respective bodies of the judiciary other than the ones under Article 178, para 1.

(2) (Repealed, renumbered from Paragraph 1, SG No. 1/2011, effective as of 4.01.2011) Competitions shall be organised by the administration of the Supreme Judicial Council.

## **Article 189**

(1) (Amended, SG No. 33/2009, amended, SG No. 1/2011, effective as of 4.01.2011) The vacant positions in courts, prosecution offices and investigation bodies, other than those under Article 178, shall be announced by the Supreme Judicial Council in accordance with the procedure under Article 179 separately for each judiciary body and shall be occupied after a competition based on an appraisal.

(2) Promotion in position shall be the act of passing to a position of a higher degree in a judicial system body.

(3) Transfer shall be the act of passing to a position of equal degree in a judicial system body.

(4) The competition shall be conducted by competition commissions appointed by the Supreme Judicial Council separately for judges, prosecutors and investigating magistrates. The commissions shall consist of a chairperson, four regular members and two substitutes.

(5) Members of the Supreme Judicial Council and administrative heads may not be members of competition commissions.

(6) Acting prosecutors and investigating magistrates may not be members of competition commissions for judges. Acting judges may not be members of competition commissions for prosecutors and investigating magistrates.

(7) Depending on the number of candidates the Supreme Judicial Council may appoint more than one competition commission for holding a single competition.

(8) The membership of each commission shall be determined by the Supreme Judicial

Council on the basis of lots drawn at a public meeting from amongst the judges in the appellate courts, the Supreme Court of Cassation and the Supreme Administrative Court and amongst the prosecutors in the appellate prosecution offices, the supreme cassation prosecution office, the supreme administrative prosecution office and the investigating magistrates in the National Investigation Service.

### **Article 190**

The announcement under Article 189, para 1 shall be made at the same time as the announcement of positions available for initial appointment and it shall set out the number and type of positions, as well as the judicial system bodies to which it refers.

### **Article 191**

(1) (Supplemented, SG No. 1/2011, effective as of 4.01.2011, amended, SG No. 32/1011, effective 19.04.2011) A candidate for a position under Art. 189, para 1 may be a judge, prosecutor or an investigating magistrate with the required service record under Art. 164 for the available position announced. If there is no candidate for the relevant position, such vacancy shall be filled in accordance with the procedure provided for by Article 178.

(2) The candidate shall file documents with the Supreme Judicial Council.

(3) The Commission on proposals and appraisal of judges, prosecutors and investigating magistrates shall inspect the documents of all candidates.

(4) The list of all candidates shall be announced on the website of the Supreme Judicial Council, grounds being set out for the candidates failing to satisfy the conditions.

(5) (New, SG No. 1/4.01.2011, effective as of 4.01.2011) The lists of the persons admitted and not admitted for participation in the competition shall be announced under the procedure of para 4 at least 14 days prior the date of conducting the competition. The grounds for non-admittance shall be specified in the list of the persons not admitted for participation in the competition. Within three days after the announcement of the lists the candidates that are not admitted may address a written objection to the Supreme Judicial Council.

### **Article 192**

(Amended, SG No. 1/2011, effective as of 4.01.2011)

(1) The competition commission shall conduct the competition through an interview with the candidates on practical issues related to the implementation of the law. When determining the performance of each candidate the score from the interview and the results of the periodic appraisals conducted thus far shall be taken into account on the basis of which an aggregate score shall be made of the professional characteristics of the candidate.

(2) The competition commission shall draw up a protocol of the ranking of the candidates together with a substantiated opinion.

(3) The competition commission shall send to the Supreme Judicial Council the results of the ranking together with all the competition documentation and minutes of the conducted interview.

(4) The Commission for Professional Ethics and Prevention of Corruption of the Supreme Judicial Council shall conduct an evaluation of the moral characteristics of the first three candidates for each position and shall draw up an opinion on each candidate on the basis of the documents presented by the candidate and the documents contained in the service file related to the results of the inspections of the Inspectorate at the Supreme Judicial Council, the incentives and sanctions, the alerts of breaches of professional ethics rules for judges, prosecutors and investigating magistrates.

(5) The results of the ranking shall be announced on the web site of the Supreme Judicial Council.

### **Article 193**

(Amended, SG No. 1/2011, effective as of 4.01.2011)

(1) The results of the ranking of the candidates together with all the competition documentation and the opinion of the of the Commission for Professional Ethics and Prevention of Corruption shall be presented to the Commission on proposals and appraisal of judges, prosecutors and investigating magistrates.

(2) The Commission on proposals and appraisal of judges, prosecutors and investigating magistrates shall submit to the Supreme Judicial Council a substantiated proposal on promotion or transfer of the candidates ranked first for the positions at the respective judiciary bodies.

(3) The Supreme Judicial Council shall adopt a resolution for promotion or transfer of a judge, prosecutor or investigating magistrate according to the order of ranking until the positions are occupied.

(4) When adopting the resolution under para 3 the Supreme Judicial Council shall verify whether the candidate ranked first satisfies the requirements under Article 164 and whether he/she has the required professional and moral characteristics.

(5) The Supreme Judicial Council shall reject with a resolution the appointment of a candidate of whom it has established that he/she does not satisfy the requirements of Article 162 and 164. In this case the candidate ranked next who satisfies the requirements shall be appointed

(6) The resolution of the Supreme Judicial Council under para 5 may be appealed under the terms and procedures of Article 187.

### **Article 194**

(1) (Supplemented, SG No. 33/2009, amended, SG No. 1/2011, effective as of 4.01.2011)

In the cases of closures of courts, prosecution offices and investigation bodies or of cuts of the positions therein the Supreme Judicial Council shall open the respective positions in a different judiciary body of an equal rank, if possible in the same appellate area and shall reappoint in them without a competition the judges, prosecutors and the investigating magistrates.

#### **Article 194a**

(New, SG No. 33/2009, amended, SG No. 1/2011, effective as of 4.01.2011)

(1) The vacant positions for administrative heads in the judiciary bodies shall be announced by the Supreme Judicial Council with a resolution which shall be published in the State Gazette and on the web site of the Supreme Judicial Council and shall be occupied following an election.

(2) The candidates for administrative heads shall be announced publicly on the web site of the Supreme Judicial Council together with a short CV of the candidate.

(3) For participation in the election the candidates for administrative heads shall file the documents under Article 181, para 3 at the Supreme Judicial Council. The Commission on proposals and appraisal of judges, prosecutors and investigating magistrates shall conduct a verification of the documents and shall admit for participation in the election all candidates who satisfy the requirements of Article 164 and 169, para 1.

(4) The lists of the admitted and not admitted candidates for participation in the election shall be published on the web site of the Supreme Judicial Council at least 14 days prior to the date of conducting the election.

(5) The grounds for non-admittance shall also be specified in the list of the candidates that are not admitted to participate in the election. Within three days after the announcement of the lists the candidates that have not been admitted may address a written objection to the Supreme Judicial Council.

#### **Article 194b**

(New, SG No. 1/4.01.2011, effective as of 4.01.2011)

(1) The procedure for election of administrative heads shall be conducted by the Supreme Judicial Council through an interview. During the interview an assessment of the candidate shall be made concerning:

1. his/her professional competence as a judge, prosecutor or an investigating magistrate on the basis of the periodic appraisal conducted thus far;

2. his/her management competence as an administrative head for which the candidate shall defend a concept thesis of the strategic management of the respective judiciary body;

3. the moral characteristics of the candidate on the basis of a substantiated opinion of the Commission for Professional Ethics and Prevention of Corruption.

(2) The opinion under para 1. item 3 shall be presented to the candidate at least three days prior to the date of the interview.

(3) (Supplemented, SG No. 32/2011, effective 19.04.2011) The Supreme Judicial Council shall adopt a resolution on the appointment of the candidate who satisfies the requirements of Article 164 and Article 169, Paragraph 1, such resolution being also based on the assessment referred to in Paragraph 1, Item 2.

(4) The resolution of the Supreme Judicial Council under para 3 may be appealed under the terms and procedure of Article 187.

### **Article 194c**

(New, SG No. 1/4.01.2011, effective as of 4.01.2011, declared unconstitutional with Judgment No.10 by the Constitutional Court of the Republic of Bulgaria, SG No. 93/2011)

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The procedure for conducting competitions and an election under Sections II and IIa shall be specified with an Ordinance of the Supreme Judicial Council which shall be published in the State Gazette.

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## **Section III Incompatibility**

### **Article 195**

(1) A judge, prosecutor or an investigating magistrate, while in office, may not:

1. Be a member of the National Assembly, a mayor or municipal councillor,
2. Be in office in state or municipal bodies, as well as in EU institutions,

3. (Supplemented, SG No. 1/2011, effective as of 4.01.2011) Exercise trade or be a partner, manager or sit on supervisory, management boards or boards of directors or on control bodies of commercial companies, cooperatives or non-profit legal entities carrying out profitable business, with the exception of those of professional associations of the judges, prosecutors and investigating magistrates or of other lawyers;

4. (Supplemented, SG 25/2009, effective 3.04.2009, SG No. 33/2009, amended, SG No. 1/2011, effective as of 4.01.2011) Be remunerated for business under a contract or as part of an official legal or other relationship with a state, municipal or public organisation, a commercial company, cooperative, non-profit legal entity, an individual or sole proprietor, with the exception

of scientific or teaching activities, for participation in the Central Election Commission and in election commissions during elections for members of Parliament, members of the European Parliament from the Republic of Bulgaria, President and Vice-President of the Republic and local elections, for participation in drawing up draft normative acts assigned by the National Assembly or by bodies of the executive as well as for the exercise of copyright and for participation in international projects, including ones funded by the European Union;

5. Exercise a liberal profession or another remunerate professional activity,

6. Be a member of political parties or coalitions, of organisations with a political goal, carry out political activity, as well as be a member of organisations or carrying out business interfering with his independence,

7. Be a member of a trade union organisation outside the judicial system.

(2) (New, SG No. 1/4.01.2011, effective as of 4.01.2011) The judges from the administrative courts, the judges from the Supreme Administrative Court, the prosecutors from the administrative departments of the regional prosecution offices, the prosecutors from the supreme administrative prosecution office and the investigating magistrates may not be members of the Central Election Commission and of election commissions during elections for members of Parliament, members of the European Parliament from the Republic of Bulgaria, President and Vice-President of the Republic and local elections.

(3) (Renumbered from Paragraph 2, amended and supplemented, SG No. 1/2011, effective as of 4.01.2011) Upon termination of office, individuals under para 1, item 1, the judges in the Constitutional Court, the ministers or deputy ministers who have filed a request with the Supreme Judicial Council within 14 days of the date of their relief from office, shall be reinstated to the position previously occupied in judicial system bodies, the time spent in discharging the respective office counting toward their service record under Article 164, para 1-7.

## **Section IV**

### **Appraisal. Tenure**

#### **Article 196**

(Amended, SG No. 1/2011, effective as of 4.01.2011) Appraisal shall be carried out:

1. for the purpose of acquiring tenure, after completing a five year length of service as a judge, prosecutor or investigating magistrate;

2. (Effective as of 1.03.2011) Periodically, every four years after a previous appraisal, until completion of 60 years of age - of a judge, prosecutor or investigating magistrate, of an administrative head or a deputy of an administrative head.

#### **Article 197**



(Amended, SG No. 1/2011, effective as of 4.01.2011) (1) The appraisal for acquiring tenure shall have the objective of making an objective assessment of the professional qualifications and the performance characteristics shown after the completion of a five-year length of service at the position of a judge, prosecutor or investigating magistrate. When making an appraisal for the purposes of acquiring tenure the results of the periodic appraisal of the judge, prosecutor or investigating magistrate shall be taken into consideration.

(2) Periodic appraisal shall be an assessment of the professional qualifications and the performance characteristics of a judge, prosecutor or investigating magistrate, of an administrative head and deputy administrative head for a period of four years. The appraisal shall be conducted on the basis of the criteria and indicators specified herein and in the Ordinance under Article 209a.

(3) An aggregate assessment shall be drawn up on the basis of the appraisal which shall be adopted by the Supreme Judicial Council.

### **Article 198**

(Amended, SG No. 1/2011, effective as of 4.01.2011) (1) The criteria for the appraisal of a judge, prosecutor or an investigating magistrate shall be:

1. legal knowledge and skills for its implementation;
2. skills for analysis of legally relevant facts;
3. skills for optimal organisation of work;
4. expediency and discipline.

(2) In the course of the appraisal under para 1 the following indicators shall be taken into account:

1. compliance with terms,
2. the number of acts confirmed and repealed and the grounds therefor,
3. the outcomes of inspections carried out by the Inspectorate at the Supreme Judicial Council,
4. the overall workload of the respective judicial area and judicial body as well as the workload of the appraised judge, prosecutor or investigating magistrate compared to other judges, prosecutors or investigating magistrates in the same judicial body.

(3) When appraising a junior judge and junior prosecutor the evaluation of the judge or prosecutor appointed as his/her mentor shall also be taken into account.

(4) The time served by the judge, prosecutor or investigating magistrate as a permanent

professor at the National Institute of Justice shall also be included in the appraisal period. The evaluation of the work performance as a professor shall be given by the managing board.

### **Article 199**

(1) Specific criteria for the appraisal of judges shall be:

1. The compliance with the schedule of court hearings,
2. The skills for conducting court hearings and drawing up records of proceedings.

(2) Specific criteria for the appraisal of prosecutors shall be:

1. The skills for planning and adopting a structured approach at taking action in pre-trial and trial proceedings,

2. The level of implementation of written instructions and personal orders of a higher-standing prosecutor,

3. The ability to organise the work and to direct investigation bodies and teams involved in pre-trial proceedings.

(3) Specific criteria for the appraisal of investigating magistrates shall be:

1. The skills for planning and adopting a structured approach at taking action in pre-trial proceedings,

2. The level of implementation of written instructions and personal orders of the prosecutor.

### **Article 200**

(Amended, SG No. 1/2011, effective as of 4.01.2011) (1) The periodic appraisal of an administrative head and of a deputy of an administrative head shall cover an evaluation of his/her capacity to occupy a leadership position and an evaluation of his/her qualifications as a judge, prosecutor or an investigating magistrate.

(2) In the course of the periodic appraisal of an administrative head and of a deputy of an administrative head the results of the work of the respective judicial body shall be analysed and taken into account.

(3) An aggregate evaluation shall be drawn up on the basis of the appraisal which shall be adopted by the Supreme Judicial Council.

### **Article 201**

(Amended, SG No. 1/2011, effective as of 4.01.2011) (1) The criteria for occupying a leadership position shall be:

1. the ability to work in a team and to distribute assignments therein;
2. the ability to make correct management decisions;
3. behaviour which enhances the authority of the judiciary;
4. skills to communicate with other state authorities, citizens and legal persons.

(2) The evaluation of the ability to occupy a leadership position shall be done on the basis of the criteria to occupy a leadership position and the indicators for occupying a leadership position specified in the Ordinance under Article 209a.

(3) The evaluation of the professional qualifications shall be done on the basis of the criteria for evaluation of a judge, prosecutor or investigating magistrate.

#### **Article 202**

(Repealed, SG No. 1/2011, effective as of 4.01.2011)

#### **Article 203**

(Amended, SG No. 1/2011, effective as of 4.01.2011) (1) The appraisal shall commence at the proposal of the respective judge, prosecutor or investigating magistrate or of the administrative head of the respective judicial body.

(2) The proposal for appraisal for the purpose of acquiring tenure shall be made to the Commission on proposals and appraisal of judges, prosecutors and investigating magistrates at least three months prior to the expiry of the five-year term.

(3) The Commission on proposals and the appraisal of judges, prosecutors and investigating magistrates shall start the periodic appraisal at least six months before the expiry of the four-year term.

#### **Article 204**

(Amended, SG No. 1/2011, effective as of 4.01.2011) (1) The auxiliary appraisal commissions shall participate in the conduct of the periodic appraisal of judges, prosecutors and investigating magistrates as follows:

1. for appraisal of judges:

a) district judge and deputy administrative head of a district court - an auxiliary appraisal commission at the respective regional court and in relation to the judges of the Sofia District Court - an auxiliary appraisal commission of the Sofia City Court;

b) regional judge and judge of the Sofia City Court as well as a deputy administrative head

of a regional court and of the Sofia City Court - an auxiliary appraisal commission at the respective appellate court;

c) judge at the specialised criminal court and deputy administrative head of the specialised criminal court - an auxiliary appraisal commission at the appellate specialised criminal court;

d) administrative judge and deputy administrative head of the administrative court - an auxiliary appraisal commission at the Supreme Administrative Court;

e) judge at a military court and deputy administrative head of a military court - an auxiliary appraisal commission at a military appellate court;

f) appellate judge, judge at a military appellate court and judge at the appellate specialised criminal court as well as deputy administrative head of an appellate court, of the military appellate court and the appellate specialised criminal court - an auxiliary appraisal commission at the Supreme Court of Cassation.

## 2. for the appraisal of prosecutors:

a) prosecutor at a district prosecution office and deputy administrative head of a district prosecution office - an auxiliary appraisal commission at the respective regional prosecution office, and for a prosecutor at the Sofia district prosecution office and deputy administrative head of the Sofia district prosecution office - an auxiliary appraisal commission at the Sofia City prosecution office;

b) prosecutor at a regional prosecution office and prosecutor at the Sofia City prosecution office as well as deputy administrative head of a regional prosecution office and of the Sofia City prosecution office - an auxiliary appraisal commission at the respective appellate prosecution office;

c) prosecutor at the specialised prosecution office and administrative head of the specialised prosecution office - an auxiliary appraisal commission at the appellate specialised prosecution office;

d) prosecutor at a military regional prosecution office and deputy administrative head of a military regional prosecution office - an auxiliary appraisal commission at the military appellate prosecution office;

e) prosecutor at the appellate prosecution office, prosecutor at the military appellate prosecution office and prosecutor at the specialised prosecution office as well as deputy administrative head of an appellate prosecution office, military appellate prosecution office and the specialised prosecution office - an auxiliary appraisal commission at the Supreme Cassation Prosecution Office;

## 3. for the appraisal of investigating magistrates:

a) investigating magistrate at a regional investigation department of a regional prosecution

office, investigating magistrates at an investigation department of the Sofia City prosecution office, investigating magistrate at an investigating department of a specialised prosecution office, head of the regional investigation department of a regional prosecution office and head of the investigation department of the specialised prosecution office - an auxiliary appraisal commission at the National Investigation Service;

b) military investigating magistrate - an auxiliary appraisal commission at the regional military prosecution office.

(2) The Commission on proposals and appraisal of judges, prosecutors and investigating magistrates shall conduct periodic appraisal of:

1. the deputy administrative heads and the judges at the Supreme Court of Cassation and at the Supreme Administrative Court;

2. the deputies of the Prosecutor General and the prosecutors at the supreme cassation prosecution office and the supreme administrative prosecution office;

3. the Director of the National Investigation Service and the investigating magistrates of the National Investigation Service;

4. the administrative heads of the district, regional, administrative, military regional and appellate courts as well as of the specialised criminal court, the appellate specialised criminal court and of the military appellate court;

5. the administrative heads of the district, regional, administrative, military regional and appellate prosecution offices as well as of the specialised and the appellate specialised prosecution offices and of the military appellate prosecution office;

6. the administrative heads of the Sofia district court, the Sofia City court, the Sofia district prosecution office and the Sofia City prosecution office.

#### **Article 204a**

(New, SG No. 1/4.01.2011, effective as of 4.01.2011) (1) When conducting the periodic appraisal the auxiliary appraisal commissions and the Commission on proposals and appraisal of judges, prosecutors and investigating magistrates shall carry out an inspection of the records, the protocols of the procedural actions performed by the judges, prosecutors and investigating magistrates and of their acts for the period of the appraisal.

(2) In order to conduct the appraisal the auxiliary appraisal commissions and the Commission on proposals and appraisal of judges, prosecutors and investigating magistrates may hear the appraised judge, prosecutor, investigating magistrate and deputy administrative head as well as collect any additional information on the appraisal indicators.

(3) After the appraisal the Commission on proposals and appraisal of judges, prosecutors and investigating magistrates shall draw up an aggregate evaluation which may be positive or

negative. The grades of the positive aggregate evaluations shall be:

1. satisfactory;
2. good;
3. very good.

(4) The aggregate evaluation shall be substantiated and shall contain recommendations to the person appraised.

#### **Article 205**

(Amended, SG No. 1/2011, effective as of 4.01.2011)

(1) The Commission on proposals and appraisal of judges, prosecutors and investigating magistrates shall present the aggregate evaluation under Article 203a, para 3 to the appraised who may file within seven days a written objection to the Supreme Judicial Council.

(2) In case of an objection the Supreme Judicial Council shall hear the appraised person and if necessary shall collect additional information. The appraised person shall be notified at least seven days prior to the date of the hearing.

(3) When the Supreme Judicial Council complies with the objection the Commission on proposals and appraisal of judges, prosecutors and investigating magistrates shall draw up a new aggregate evaluation.

#### **Article 206**

(Amended, SG No. 1/2011, effective as of 4.01.2011)

The aggregate evaluation of the periodic appraisal together with the recommendations to the appraised person shall be adopted with a resolution of the Supreme Judicial Council.

#### **Article 207**

(1) (Supplemented, SG No. 33/2009, amended, SG No. 1/2011, effective as of 4.01.2011) A judge, prosecutor or investigating magistrate shall acquire tenure after completing a five-year length of service at the respective position and after receiving a positive aggregate evaluation from the appraisal.

(2) The time as junior judge or junior prosecutor shall be included in the length of service for acquiring tenure.

#### **Article 208**

(Repealed, SG No. 33/2009, effective)

## **Article 209**

(Amended, SG No. 33/2009, SG No. 1/2011, effective as of 4.01.2011) (1) Appraisal of a judge, prosecutor or investigating magistrate for acquiring tenure shall be performed by the Commission on proposals and appraisal of judges, prosecutors and investigating magistrates which shall draw up an aggregate evaluation within one month after receiving a proposal under Article 203, para 1. The aggregate evaluation shall be presented to the appraised person who may object to it in writing before the Supreme Judicial Council within seven days.

(2) Should an objection be made the Supreme Judicial Council shall hear the appraised person and if necessary shall collect additional information. The appraised person shall be notified at least seven days prior to the date of the hearing.

(3) When the Supreme Judicial Council complies with the objection the Commission on proposals and appraisal of judges, prosecutors and investigating magistrates shall draw up a new aggregate evaluation.

(4) The aggregate evaluation for acquiring tenure shall be adopted with a resolution of the Supreme Judicial Council.

(5) When the aggregate evaluation is negative the Supreme Judicial Council shall refuse the acquirement of tenure with a resolution and the appraised person shall be relieved from office.

## **Article 209a**

(New, SG No. 33/2009, amended, SG No. 1/2011, effective as of 4.01.2011, declared unconstitutional with Judgment No.10 by the Constitutional Court of the Republic of Bulgaria, SG No. 93/2011)

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The Supreme Judicial Council shall adopt an Ordinance concerning the indicators and procedure for appraising judges, prosecutors and investigating magistrates and of administrative heads and of deputy administrative heads as well as on the procedures for conducting the appraisal. The Ordinance shall specify also the criteria for determining the workload of the judiciary bodies. The Ordinance shall be published in the State Gazette.

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## **Section V**

### **Rights and duties**

#### **Article 210**

Judges, prosecutors and investigating magistrates shall be obligated:

1. To dispose of the files and cases assigned to them within the imparted term,
2. Take part in sessions of the general assembly of the respective judicial system body,
3. Where necessary, to discharge their official duties outside normal business hours,
4. Discharge other office related tasks assigned by their administrative head.

#### **Article 211**

(1) Judges and court assessors shall be obligated to keep the secret of deliberations when disposing of cases.

(2) Judges, prosecutors and investigating magistrates shall be obligated to keep as official secret the information of which they have gained knowledge while on service and which affects the interests of citizens, legal entities and the state.

#### **Article 212**

Judges, court assessors, prosecutors and investigating magistrates shall have no right to share in advance of the judgement any views on the cases assigned to them, as well as any views on cases not assigned to them.

#### **Article 213**

A judge, prosecutor or an investigating magistrate shall not have the right to provide legal advice.

#### **Article 214**

A judge, prosecutor or an investigating magistrate may not be convoked to a training field event or a military exercise.

#### **Article 215**

In the implementation of their functions, judges, prosecutors and investigating magistrates may ask all state bodies, officials, legal entities and citizens for assistance, which they shall be obligated to provide.

#### **Article 216**

(1) The state shall protect judges, prosecutors and investigating magistrates in the discharge of their official duties and shall compensate them for damages suffered during or on the occasion of implementing their official functions. The amount of compensation shall be determined on the basis of the difference between the actual amount of damage and the amount of their mandatory insurance.



(2) Under the conditions of para 1, the state shall also compensate the damages inflicted on the spouses, ascendants or descendants of judges, prosecutors and investigating magistrates due to the discharge of their official duties.

### **Article 217**

(1) Judges, prosecutors and investigating magistrates may form and be members of organisations for the protection of their professional interests.

(2) Organisations under para 1 may not be members of federations or confederations of trade union organisations of workers and employees.

### **Article 218**

(1) The chairpersons of the Supreme Court of Cassation and of the Supreme Administrative Court, the Prosecutor General and the Director of the National Investigation Service shall have a basic monthly remuneration equal to 90 percent of the remuneration of the chairperson of the Constitutional Court.

(2) The basic monthly remuneration for the lowest judicial, prosecutorial or investigating magisterial position shall be set at the double amount of the average monthly salary of budget-funded employees, based on data of the National Institute of Statistics.

(3) Remunerations for other positions at judicial system bodies shall be set by the Supreme Judicial Council.

### **Article 219**

On top of the basic monthly remuneration, judges, prosecutors and investigating magistrates shall be paid additional remuneration for extended work as a judge, prosecutor and an investigating magistrate at the amount of 2 percent for each year of service record, not to exceed 40 percent.

### **Article 220**

Additional remuneration for extra work shall be paid to judges, prosecutors and investigating magistrates only for the discharge of their official duties on holidays and days off.

### **Article 221**

Judges, prosecutors and investigating magistrates shall receive every year funds for robes and clothing at the amount of two average monthly salaries of the budget-funded employees.

### **Article 222**

In case of promotion or transfer of a judge, prosecutor or an investigating magistrate within

judicial system bodies, no compensation shall be paid.

### **Article 223**

While in office, judges, prosecutors and investigating magistrates may use housing belonging to the internal housing fund of the judicial system bodies.

### **Article 224**

(1) Mandatory social security and health insurance of judges, prosecutors and investigating magistrates shall be provided at the expense of the Judiciary budget.

(2) Judges, prosecutors and investigating magistrates shall be mandatorily insured against accidents at the expense of the Judiciary budget.

### **Article 225**

(1) Upon relief from office, a judge, prosecutor or an investigating magistrate with more than 10 years in service at such position shall have the right to a one-off compensation at the number of gross monthly remunerations equalling the number of years in service with judicial system bodies, not exceeding 20.

(2) (Supplemented, SG No. 103/2009, effective 29.12.2009) Compensation under para 1 shall not be paid in cases under Article 165, para 1, item 3, as well as where the aggregate score of the last appraisal of the judge, prosecutor or investigating magistrate concerned has been negative. No compensation shall be paid in cases referred to in Article 308(3).

(3) In cases where a judge, prosecutor or an investigating magistrate has been indicted of a deliberate criminal offence or disciplinary proceedings have been opened against him, compensation shall not be paid until completion of the criminal or disciplinary proceedings.

(4) Upon subsequent relief from office, the compensation obtained previously on the same grounds shall be deducted from the compensation due under para 1.

(5) In the event of death of a judge, prosecutor or investigating magistrate, compensation under para 1 shall be paid out to his heirs.

### **Article 226**

A judge, prosecutor or investigating magistrate illegally relieved from office shall have, upon reinstatement, the right to compensation at the amount of his gross remuneration for the time in which he was out of office, limited, however, to 6 months. Where he has been appointed to another position entailing a lower salary or has received remuneration for another type of work of a lower amount, he shall be entitled to the difference in salaries or to the difference between such salary and such remuneration. The gross salary on the basis of which compensation is calculated shall be the gross salary set at the moment relief from office is recognised as illegal or of his failure to appear for the purpose of entering office.

### **Article 227**

(1) A judge, prosecutor or an investigating magistrate may not be seconded for more than three months in the same calendar year without his prior written consent.

(2) Pregnant women and the mothers of children aged less than three years may not be seconded without their prior written consent.

(3) For the time in which a judge, prosecutor or an investigating magistrate is seconded for the discharge of a higher office than his own, he shall correspondingly receive higher remuneration.

(4) (New, SG No. 33/2009) The body whereat the magistrate is appointed shall pay the remuneration for the main position at which such magistrate is appointed, as well as the difference as compared to the amount of the higher remuneration for rank and the superior position whereat the magistrate has been seconded.

### **Article 228**

(1) Judges, prosecutors and investigating magistrates shall declare their income and property before the National Audit Office subject to the terms and procedure of the Publicity of the Property of Individuals in Elevated Office of the State Act.

(2) The Supreme Judicial Council shall provide the National Audit Office with information about the remunerations of individuals occupying judicial, prosecutorial or investigating magisterial positions, as well as about any changes in their official status.

### **Article 229**

The Labour Code shall apply to any matters that have not been provided for in this Section.

## **Section VI**

### **Temporary removal from office**

### **Article 230**

(1) In cases under Article 132 of the Constitution of the Republic of Bulgaria, where a judge, prosecutor or an investigating magistrate has been indicted, the Supreme Judicial Council shall temporarily remove him from office until the completion of criminal proceedings.

(2) Where, outside cases under para 1, publicly actionable criminal proceedings have been instituted against a judge, prosecutor or an investigating magistrate, the Supreme Judicial Council may remove him from office until the completion of criminal proceedings.

(3) A request for temporary removal from office shall be made by the Prosecutor General or

by no less than one-fifth of the total number of Supreme Judicial Council members - in cases under para 2.

(4) In cases where a judge, prosecutor or an investigating magistrate has been remanded in custody, he shall be deemed as temporarily removed from office from the date of entry into force of the judicial act for the adoption of such a measure.

### **Article 231**

(Supplemented, SG No. 33/2009)

Where criminal proceedings have terminated, except in the cases under Article 24, para 1, items 2 and 3 and para 3 of the Criminal Procedure Code, or an acquittal has been adopted, the judge, prosecutor or investigating magistrate temporarily removed from office shall be reinstated and be paid labour remuneration for the duration of such removal.

### **Article 232**

(Supplemented, SG No. 103/2009, effective 29.12.2009)

In presence of pending disciplinary proceedings entailing disciplinary relief from office of an elected member of the Supreme Judicial Council as a sanction, a judge, prosecutor, administrative head or deputy of an administrative head may be removed from office for a period of up to 6 months by the Supreme Judicial Council at the proposal of its disciplinary panel.

## **Section VII**

### **Ranks. On-the-job promotion. Seniority**

#### **Article 233**

(1) The ranks of judges, prosecutors and investigating magistrates indicated in the ascending order shall be as follows:

1. (Amended, SG No. 33/2009, SG No. 1/2011, effective as of 4.01.2011) A judge at a regional court, a prosecutor at a regional prosecution office;

2. A judge at an appellate court and a prosecutor at an appellate prosecution office;

3. A judge at the Supreme Court of Cassation and at the Supreme Administrative Court, a prosecutor at the Supreme Prosecution Office of Cassation and at the Supreme Administrative Prosecution Office and an investigating magistrate at the National Investigation Service.

(2) (Supplemented, SG No. 33/2009, SG No. 1/2011, effective as of 4.01.2011) Judges at the city court in Sofia, at the specialised criminal court and at the Administrative Court in Sofia shall have the rank of a judge at an appellate court and judges at the district court in Sofia shall have the rank of a judge at a regional court.

(3) (Supplemented, SG No. 1/2011, effective as of 4.01.2011) Prosecutors at the city prosecution office in Sofia and the prosecutors in the specialised prosecution office shall have the rank of prosecutors at an appellate prosecution office and prosecutors at the district prosecution office in Sofia shall have the rank of prosecutors at a regional prosecution office.

(4) (New, SG No. 1/4.01.2011, effective as of 4.01.2011) The judges at the appellate specialised criminal court shall have the rank of judges at the Supreme Court of Cassation.

(5) (New, SG No. 1/4.01.2011, effective as of 4.01.2011) The prosecutors at the appellate specialised prosecution office shall have the rank of prosecutors at the supreme cassation prosecution office

(6) (New, SG No. 1/4.01.2011, effective as of 4.01.2011) On the basis of the workload level of the respective judiciary body the Supreme Judicial Council may determine additional remuneration to judges, prosecutors and investigating magistrates.

#### **Article 234**

(Amended, SG No. 1/2011, effective as of 4.01.2011) On-the-job promotion of a judge, prosecutor and an investigating magistrate to a higher rank and remuneration may take place against substantiated high qualifications and the exemplary discharge of official duties, where the judge, prosecutor and investigating magistrate has served at least three years at this or an assimilated position and has a positive "very good" aggregate evaluation from the last periodic appraisal.

#### **Article 235**

Based on the rank for the position held and reckoning with the ranks of judges, prosecutors and investigating magistrates, on-the-job promotion shall be to no more than two higher ranks, inclusive.

#### **Article 236**

A judge, prosecutor or an investigating magistrate relieved from office, other than due to the entry into force of a sentence to imprisonment for a deliberate criminal offence or disciplinary relief from office as a sanction, upon subsequent appointment shall keep the rank he had prior to such relief.

#### **Article 237**

(Amended, SG No. 1/2011, effective as of 4.01.2011)

(1) The seniority of a judge, prosecutor and an investigating magistrate shall be determined:

1. by the position he/she occupies at the respective court, prosecution office or investigation body;

2. in the case of equal positions - by the rank he/she has pursuant to Article 233, para 1-5;
3. in case of equal positions and ranks - by the length of service at the same position;
4. in case of the same length of service at the same position - by the length of service at other positions as a judge, prosecutor or investigating magistrate;

(2) The seniority of military judges, prosecutor or investigating magistrates shall be determined by the position they occupy; in case of equal positions - by the rank under Article 233 paras 1-5; in case of equal position and rank - by the military rank and in case of equal military ranks - by the length of service at other positions as a judge, prosecutor or investigating magistrate.

## **Chapter ten**

### **JUNIOR JUDGES AND JUNIOR PROSECUTORS. JUDICIAL ASSISTANTS AND PROSECUTORIAL ASSISTANTS**

**(Title amended, SG No. 33/2009)**

#### **Section I**

#### **Junior judges and junior prosecutors**

**(Title amended, SG No. 33/2009)**

##### **Article 238**

(Amended, SG No. 32/2011, effective 1.01.2012) An individual meeting the requirements of Article 162 and having successfully passed a competition under Article 176, Paragraph 1, Item 1, as well as the relevant examinations after an initial course of mandatory study at the National Institute of Justice may be appointed as a junior judge or junior prosecutor.

##### **Article 239**

- (1) A junior judge shall be appointed to a regional court.
- (2) A junior prosecutor shall be appointed to a district prosecution office.
- (3) (Repealed, SG No. 33/2009).

##### **Article 240**

(1) (Amended, SG No. 33/2009, SG No. 32/2011, effective 1.01.2012) Junior judges and junior prosecutors shall be appointed for a term of two years.

(2) The term under para 1 may be extended by 6 months following a resolution of the Supreme Judicial Council to this effect.

(3) (New, SG No. 33/2009, amended, SG No. 32/2011, effective 1.01.2012) A junior judge with a service record of more than one year may be seconded to an available position at a district court in the same judicial area.

#### **Article 241**

Upon entering office the junior judge and junior prosecutor shall correspondingly take the oath under Article 155 and Article 156.

#### **Article 242**

(Amended, SG No. 33/2009)

(1) (Previous Article 242, SG No. 1/2011, effective as of 4.01.2011) The administrative head of the respective court or prosecution office shall designate by order a judge or prosecutor as mentor who shall monitor and assist the professional development of the junior judge or respectively junior prosecutor.

(2) (New, SG No. 1/4.01.2011, effective as of 4.01.2011) The Supreme Judicial Council shall adopt rules for the work of judges and prosecutors who are mentors.

#### **Article 243**

(1) (Amended, SG No. 33/2009) Following expiry of the term under Article 240, the junior judge or junior prosecutor shall be appointed, correspondingly, to the position of a judge at a district court or a prosecutor at a district prosecution office without competition.

(2) Where no position is available in the respective judicial area, the individual shall be offered a position in another judicial area.

## **Section II**

### **Judicial assistants and prosecutorial assistants**

#### **Article 244**

(1) (Amended, SG No. 33/2009, SG No. 1/2011, effective as of 4.01.2011) There may be judicial and prosecutorial assistants at the courts and at the prosecution offices should the Supreme Judicial Council decide so on the basis of the workload level of the respective judiciary body

#### **Article 245**

(1) An individual meeting the requirements of Article 162 and having successfully passed a competition for clerks of court shall be appointed as a judicial assistant and as a prosecutorial assistant.

(2) Candidates shall be appointed in the order of their ranking by the competition commission.

#### **Article 246**

(1) Judicial assistants shall be appointed by the administrative head of the respective court.

(2) Prosecutorial assistants shall be appointed by the Prosecutor General or the administrative head of the respective prosecution office.

#### **Article 246a**

(New, SG No. 1/4.01.2011, effective as of 4.01.2011) (1) The judicial assistants shall assist judges in performing their functions. The judicial assistants shall perform also other tasks assigned to them by the chairperson of the court, by his/her deputies by the chairperson of divisions or by other judges.

(2) The prosecutorial assistants shall assist prosecutors in performing their functions. The prosecutorial assistants shall perform also other tasks assigned to them by the respective administrative head or by his/her deputies.

#### **Article 246b**

(New, SG No. 1/4.01.2011, effective as of 4.01.2011) The judicial assistants and prosecutorial assistants shall be obliged to keep as official secret the information they have become aware of in the course of their work and which concerns the interests of citizens, legal persons, the administrative authorities and the state.

(2) The judicial assistants and prosecutorial assistants shall not be entitled to give legal advice and opinions to the parties, their procedural agents or to third persons in relation to their official work.

(3) In performing their official duties and in public life the judicial assistants and prosecutorial assistants must have behaviour compliant with professional ethics and not to damage the prestige of the judiciary.

(4) The judicial assistants and prosecutorial assistants shall be insured obligatorily against accidents at the expense of the budget of the judiciary.

#### **Article 247**

Judicial assistants and prosecutorial assistants shall receive basic monthly remuneration at the amount of 90 percent of the one for the lowest judicial or prosecutorial position.



## **Article 248**

The Labour Code shall apply to matters that have not been provided for in this Section.

# **Chapter eleven**

## **NATIONAL INSTITUTE OF JUSTICE**

### **Article 249**

(1) The National Institute of Justice shall carry out:

1. (amended, SG No. 32/2011, effective 1.01.2012) mandatory inception training of junior judge and junior prosecutor candidates;

2. (supplemented, SG No. 33/2009) Operations for maintaining and improving the qualifications of judges, prosecutors and investigating magistrates, of state enforcement agents, recordation judges, judicial assistants, prosecutorial assistants, clerks of court, of the inspectors at the Inspectorate with the Minister of Justice and of other officers of the Ministry of Justice.

(2) A training and information centre shall be set up with the National Institute of Justice, organising distance learning, researching and studying jurisprudence, including the practice in the administration of justice, for training needs.

### **Article 250**

The National Institute of Justice shall be a legal entity seated in Sofia.

### **Article 251**

(1) The National Institute of Justice shall be funded from the budget of the Judiciary, from programmes and projects, from donations and through its own business related to training.

(2) The Supreme Judicial Council shall provide resources required for the delivery of all trainings envisaged in the law to the National Institute of Justice budget.

### **Article 252**

(1) (Amended, SG No. 1/2011, effective as of 4.01.2011) The National Institute of Justice shall be headed by a management board, including five representatives of the Supreme Judicial Council and two representatives of the Ministry of Justice.

(2) (Amended, SG No. 1/2011, effective as of 4.01.2011) The chairperson of the Supreme Court of Cassation, the Chairperson of the Supreme Administrative Court and the Prosecutor General shall be ex lege members of the management board from the quota of the Supreme Judicial Council. The chairperson of the Supreme Court of Cassation shall chair that board.

(3) The Minister of Justice shall be an ex lege member of the management board from the quota of the Ministry of Justice.

#### **Article 252a**

(New, SG No. 1/4.01.2011, effective as of 4.01.2011) (1) The term of office of a member of the management board may be terminated ahead of schedule by the represented body:

1. in case of resignation;
2. in case of permanent actual incapacity to perform duties for more than six months;
3. in case of discharge from membership in the Supreme Judicial Council - for the representatives of the Supreme Judicial Council;
4. in case of serious and systematic failure to perform duties.

(2) In case of termination of the term of office of a member of the management board ahead of schedule the respective represented body shall elect in his/her place a new member within one month who shall complete the term of office of his predecessor.

#### **Article 253**

The management board of the National Institute of Justice shall:

1. Appoint and relieve from office the Director and the deputy directors,
2. Adopt the training programmes,
3. Approve the draft National Institute of Justice budget and submit it to the Supreme Judicial Council,
4. Adopt internal rules as envisaged in the Regulations under Article 263,
5. Approve the composition of the programme board of the National Institute of Justice,
6. (Amended, SG No. 33/2009) Propose the number of staff to the Supreme Judicial Council,
7. Adopt a three-year business plan,
8. Organise, direct and control the participation of the National Institute of Justice in the European Judicial Training Network.

#### **Article 254**

The resolutions of the management board shall be adopted by a majority of more than half its members, with the exception of resolutions under Article 253, items 1 - 4, which shall be adopted by a majority of two-thirds of the members.

### **Article 255**

(1) The National Institute of Justice shall be managed by a Director.

(2) (Amended, SG No. 1/2011, effective as of 4.01.2011) The Director of the National Institute of Justice shall be elected by the management board with a two-thirds majority of the members for a term of five years. He/she may be elected for another term following an evaluation of his work by the management board.

(3) (New SG No. 1/2011, effective as of 4.01.2011) A person may be elected as director of the National Institute of Justice, who:

1. has higher education in law and legal competence;
2. has high professional and moral characteristics and practical experience in the judiciary;
3. satisfies the requirements for length of service pursuant to Article 164, para 7.
4. has not been convicted a deliberate criminal offence with a sanction of imprisonment or divestment of rights to occupy a certain public office.

(4) (New SG No. 1/2011, effective as of 4.01.2011) The director shall be discharged by the management board:

1. in case of resignation
2. in case of permanent actual incapacity to perform duties for more than six months;
3. in case of conviction for a deliberate offence with a sanction of imprisonment or divestment of rights to occupy a certain public office.
4. for serious and systematic breaches of this Act and of the Regulations under Article 263.

(5) (Renumbered from Paragraph 3, SG No. 1/2011, effective as of 4.01.2011) In the absence of the Director, his powers shall be exercised by a deputy director thereby authorised in writing.

### **Article 256**

(1) The programme board shall be a support body of the National Institute of Justice with advisory functions.

(2) The composition of the programme board shall be approved by the management board

and include prominent specialists of legal theory and practice.

(3) Programme board members shall be involved in the preparation and updating of training programmes.

### **Article 257**

(1) (Supplemented, SG No. 1/2011, effective as of 4.01.2011) National Institute of Justice syllabuses shall be endorsed by the management board at the proposal of the Director following coordination with the Supreme Judicial Council.

(2) Programmes and operations for improvement of the qualifications of state enforcement agents, recordation judges, clerks of court, of inspectors at the Inspectorate with the Minister of Justice and of the other officers of the Ministry of Justice shall be coordinated with the Minister of Justice.

### **Article 258**

(Amended, SG No. 32/2011, effective 1.01.2012) (1) The duration of the training referred to in Article 249, Paragraph 1, Item 1 shall be 9 months and shall start in September in the relevant year. During the training, junior judge and junior prosecutor candidates shall receive a scholarship out of the budget of the National Institute of Justice, which shall amount to seventy percent of the basic remuneration of a junior judge or junior prosecutor.

(2) At the end of the training, junior judge and junior prosecutor candidates shall sit for a written and an oral examination, both of which being of a practical nature, marks being given on a scale of six.

(3) The examinations referred to in Paragraph 2 shall be conducted by a commission appointed by the Supreme Judicial Council, composed of a chairperson and four other members, with judges and prosecutors included in its composition. Permanent instructors with the National Institute of Justice and members of the Supreme Judicial Council may not be part of the commission.

(4) The results of the written and the oral examination shall be published at a publicly accessible place in the building of the National Institute of Justice and on its website.

(5) The results of the examinations shall be summarised in an overall score calculated as the arithmetic mean of the scores from the written and the oral examination, and shall be sent to the Supreme Judicial Council.

**Article 258a.** (New, SG No. 32/2011, effective 1.01.2012) (1) To be recognised to have successfully completed the training under Article 249, Paragraph 1, Item 1, a junior judge or junior prosecutor candidate shall have an overall score as referred to in Article 258, Paragraph 5 of at least 4.50 (Very Good).

(2) For junior judge and junior prosecutor candidates who have not successfully completed

the training under Article 249, Paragraph 1, Item 1, a new written and a new oral examination shall be scheduled for a date which is one month after the announcement of the score under Article 258, Paragraph 5 at the earliest, and two months thereafter at the latest. In case a candidate's examination score is lower than 4.50 (Very Good) again, he/she shall not be appointed as a junior judge or junior prosecutor.

(3) The Supreme Judicial Council shall, by the resolution referred to in Article 186, Paragraph 7, appoint the candidates who have successfully completed the training referred to in Article 249, Paragraph 1, Item 1 to the position for which they have been approved.

(4) Candidates who have refused to occupy the relevant position or to undergo the training for no valid reason, as well as those who have failed their second examination session, shall reimburse the National Institute of Justice for the scholarship received by them during the training.

(5) The mandatory social and health insurance contributions, as well as the accident insurance of junior judge and junior prosecutor candidates for the period of the training as referred to in Article 249, Paragraph 1, Item 1 shall be covered by the budget of the Judiciary.

(6) The training period of those who have passed the examinations shall be recognised as part of their service record under Article 164, Paragraphs 1 - 7.

**Article 258b.** (New, SG No. 32/2011, effective 19.04.2011) The status of junior judge and junior prosecutor candidates during their training under Article 249, Paragraph 1, Item 1, the organisation of and procedure of conducting the examinations under Articles 258 and 258a shall be regulated by acts adopted by the Supreme Judicial Council, which shall be promulgated in the State Gazette.

### **Article 259**

Upon initial appointment to a position with the judicial system bodies, during their first year following entry in office, judges, prosecutors and investigating magistrates shall undergo a mandatory course for the improvement of qualifications.

### **Article 260**

Participation of the clerks of court in the appropriate qualification course of the National Institute of Justice shall be taken into consideration for the purposes of their promotion.

### **Article 261**

The Supreme Judicial Council may decide that particular courses are mandatory for judges, prosecutors, investigating magistrates and clerks of court, in the event of:

1. Promotion in position,
2. Appointment as administrative heads,

### 3. Specialisation.

#### **Article 262**

(1) (Amended, SG No. 32/2011, effective 1.01.2012) Junior judge and junior prosecutor candidates shall be trained by permanent and temporary instructors.

(2) Permanent instructors of the National Institute of Justice may be judges, prosecutors, investigating magistrates, legal science professors and research workers.

(3) (Amended, SG No. 1/2011, effective as of 4.01.2011) Judges, prosecutors and investigating magistrates doing work as permanent instructors shall be seconded for one year by the Supreme Judicial Council at the proposal and expenses of the National Institute of Justice. This term may be extended annually after an evaluation of the work of the permanent instructor by the management board of the National Institute of Justice within a total length of five years.

#### **Article 263**

(Supplemented, SG No. 1/2011, effective as of 4.01.2011) At the proposal of the management board the Supreme Judicial Council shall adopt Regulations concerning the operational organisation of the National Institute of Justice and its administration which shall be published in the State Gazette.

## **Chapter twelve**

### **STATE ENFORCEMENT AGENTS**

#### **Article 264**

(1) There shall be state enforcement agents at the district courts.

(2) (New, SG No. 33/2009) State enforcement agents shall enforce private pretences. The state may also assign to state enforcement agents the collection of public receivables in the cases provided for by law.

(3) (Renumbered from Paragraph 2, SG No. 33/2009) The number of state enforcement agents shall be set by the Minister of Justice.

(4) (Renumbered from Paragraph 3, SG No. 33/2009) In district courts with no state enforcement agents their functions shall be implemented by a regional judge designated by the chairperson of the respective court, of which the Minister of Justice shall be notified.

#### **Article 265**

State enforcement agents shall be appointed by the Minister of Justice after competition. The Minister of Justice may also schedule a competition at the proposal of the chairperson of a

district court.

### **Article 266**

(1) The Minister of Justice shall schedule a competition for state enforcement agents by virtue of an order, in which the procedure for its conduct shall be stipulated.

(2) The order shall be posted at a public location inside the building of the district court and be published in the State Gazette and in a central daily, as well as on the website of the Ministry of Justice, within a period of two months prior to the competition date.

(3) The order under para 1 shall set out:

1. The number of available positions for state enforcement agents and the areas of their operation,

2. The date, time and venue for the competition,

3. The place and deadline for submission of competition documents,

4. The state fee for participation in the competition and the account to which it must be paid.

(4) The Ministry of Justice shall collect a state fee for the competition at the amount specified in a tariff approved by the Council of Ministers.

### **Article 267**

Individuals meeting the requirements of Article 162 may apply in the competition for state enforcement agents.

### **Article 268**

(1) The competition for state enforcement agents shall consist of written and verbal examination.

(2) The competition shall be conducted by a commission composed of a chairperson and two members, designated by the Minister of Justice.

(3) The competition commission shall rank the candidates and send the ranking to the Minister of Justice within a period of 7 days.

(4) Within 14 days of receiving the ranking, the Minister of Justice shall appoint the candidates who have successfully passed the competition in the order of their ranking, until occupation of the available positions.

### **Article 269**

(1) (Previous Article 269, SG No. 1/2011, effective as of 4.01.2011) In the event of a single candidate having worked as state enforcement agent for more than 5 years, the latter shall be appointed to the position without competition.

(2) (New, SG No. 1/4.01.2011, effective as of 4.01.2011) Paragraph 1 shall not apply when the person was sanctioned with the disciplinary sanction "dismissal".

### **Article 270**

At the request of a state enforcement agent who has discharged such office for no less than two years, the Minister of Justice may transfer him to another district court after taking the opinion of the chairpersons of the district courts concerned.

### **Article 271**

A state enforcement agent shall be relieved from office by the Minister of Justice:

1. Upon retirement,
2. At his own wish,
3. Upon entry into force of a sentence to imprisonment for a deliberate criminal offence,
4. In presence of lasting inability to discharge his duties for more than one year,
5. Upon serious breach or systematic failure to discharge his official duties.

### **Article 272**

(1) The Minister of Justice may remove from office a state enforcement agent who has been indicted of a publicly actionable criminal offence.

(2) Upon termination of criminal proceedings or adoption of an acquittal, the state enforcement agent who has been temporarily removed from office shall be reinstated and paid labour remuneration for the duration of such removal.

### **Article 273**

(1) In judicial areas with two or more state enforcement agents, one of them, having proven his professional characteristics, shall be appointed for a period of 5 years and with the right to reappointment as head by the Minister of Justice. The individual shall receive additional remuneration for the leadership position he discharges.

(2) In the event of absence, the head shall be replaced by a state enforcement agent designated by the chairperson of the district court, of which the Minister of Justice shall be notified.



#### **Article 274**

Where the position is unoccupied or the appointed state enforcement agent is prevented from discharging the office and may not be replaced by another state enforcement agent of the same court, the chairperson of the respective regional court or the Minister of Justice may second in his stead a state enforcement agent from another judicial area.

#### **Article 275**

(1) While on duty, a state enforcement agent shall carry a particular sign specified by the Minister of Justice.

(2) State bodies, officials, organisations and the citizens shall be obligated to provide assistance to the state enforcement agent in the discharge of his official duties.

(3) Where illegally obstructed in discharging his official duties, a state enforcement agent may ask for assistance, police bodies being obligated to provide it immediately.

#### **Article 276**

(1) (New, SG No. 33/2009, effective 1.01.2010) A state enforcement agent's remuneration shall be equal to 90 percent of the remuneration of a judge at a district court.

(2) (Previous Article 276, SG No. 33/2009, effective 1.01.2010) Where a state enforcement agent has made proof of professional qualifications and exemplary discharge of his official duties after the completion of 6 years in service, the Minister of Justice may set his remuneration up at the amount of a regional court judge's, following a proposal of the chairperson of the respective court.

#### **Article 277**

(1) State enforcement agents shall every year be paid sums for clothing at the amount of two average monthly salaries of budget-funded employees.

(2) Mandatory social security and health insurance of state enforcement agents and their insurance against accidents during or on the occasion of discharging their official duties shall be provided at the expense of the Judiciary budget.

(3) Upon termination of their labour legal relationship, state enforcement agents shall be paid compensation subject to the terms of Article 225.

#### **Article 278**

Unless otherwise provided for in this Chapter, the Labour Code shall apply.

## **Chapter thirteen**

# **RECORDATION JUDGES**

### **Article 279**

(1) There shall be recordation judges at the district courts.

(2) The number of recordation judges shall be set by the Minister of Justice.

(3) In district courts with no recordation judge or where he is prevented from discharging functions, these shall be taken up by a regional judge, of which the Minister of Justice shall be notified.

(4) The Minister of Justice may entrust a state enforcement agent of the same court with discharging the functions of a recordation judge.

### **Article 280**

(1) A recordation judge shall:

1. Order or refuse recordations, markings or deletions on the estate register and rule on the issuance of abstracts and certificates,

2. Take notary and other action provided for by law.

(2) A recordation judge may only take action in his area.

### **Article 281**

A recordation judge shall be appointed by the Minister of Justice after competition. The Minister of Justice may also schedule a competition at the proposal of the chairperson of a district court.

### **Article 282**

(1) The Minister of Justice shall schedule a competition for recordation judges by virtue of an order, where the procedure for its conduct shall be stipulated.

(2) The order shall be posted at a public location inside the building of the district court and be published in the State Gazette and in a central daily, as well as on the website of the Ministry of Justice, within a period of two months prior to the competition date.

(3) The order under para 1 shall set out:

1. The number of available positions for recordation judges and the areas of their operation,

2. The date, time and venue for the competition,
3. The place and deadline for submission of competition documents,
4. The state fee for participation in the competition and the account to which it must be paid.

(4) The Ministry of Justice shall collect a state fee for the competition at the amount specified in a tariff approved by the Council of Ministers.

### **Article 283**

Individuals meeting the requirements of Article 162 may apply in the competition for recordation judges.

### **Article 284**

- (1) The competition for recordation judges shall consist of written and verbal examination.
- (2) The competition shall be conducted by a commission composed of a chairperson and two members, designated by the Minister of Justice.
- (3) The competition commission shall rank the candidates and send the ranking to the Minister of Justice within a period of 7 days.
- (4) Within two weeks of receiving the ranking the Minister of Justice shall appoint the candidates who have successfully passed the competition, in the order of their ranking until occupation of the available positions.

### **Article 285**

- (1) (Previous Article 285, SG No. 1/2011, effective as of 4.01.2011) In the event of a single candidate having worked as recordation judge for more than 5 years, he/she shall be appointed to the position without competition.
- (2) (New, SG No. 1/4.01.2011, effective as of 4.01.2011) Paragraph 1 shall not apply when the person was sanctioned with a disciplinary sanction "dismissal".

### **Article 286**

At the request of a recordation judge who has discharged such office for no less than two years, the Minister of Justice may transfer him to another district court after taking the opinion of the chairpersons of the regional courts concerned.

### **Article 287**

A recordation judge shall be relieved from office by the Minister of Justice:

1. Upon retirement,
2. At his own wish,
3. Upon the entry into force of a sentence to imprisonment for a deliberate criminal offence,
4. In the presence of lasting inability to discharge his duties for more than one year,
5. Upon serious breach of or systematic failure in discharging his official duties.

#### **Article 288**

(1) The Minister of Justice may remove from office a recordation judge who has been indicted of a publicly actionable criminal offence.

(2) Upon termination of the criminal proceedings or adoption of an acquittal, the recordation judge who has been temporarily removed from office shall be reinstated and paid labour remuneration for the duration of such removal.

#### **Article 289**

(1) In recordation services with more than one recordation judge, one of them having made proof of a high standard of professionalism shall be appointed by the Minister of Justice as head for a period of 5 years with the right to reappointment. The individual shall receive additional remuneration for the leadership position he discharges.

(2) In the event of absence, the head shall be replaced by a recordation judge designated by the chairperson of the district court, of which the Minister of Justice shall be notified.

#### **Article 290**

Where the position is unoccupied or the appointed recordation judge is prevented from discharging office and may not be replaced by another recordation judge of the same court, the chairperson of the respective regional court or the Minister of Justice may second in his stead a recordation judge from another judicial area.

#### **Article 291**

(1) (New, SG No. 33/2009, effective 1.01.2010) A recordation judge's remuneration shall be equal to 90 percent of the remuneration of a judge at a district court.

(2) (Previous Article 291, SG No. 33/2009, effective 1.01.2010) Where a recordation judge has made proof of high professional qualifications and an exemplary discharge of official duties, after completion of 6 years in service the Minister of Justice may set his remuneration up to the amount for a regional court judge, following a proposal of the chairperson of the respective court.

### **Article 292**

(1) Recordation judges shall every year be paid sums for clothing at the amount of two average monthly salaries of budget-funded employees.

(2) Mandatory social security and health insurance of recordation judges and their insurance against accidents during or on the occasion of discharging their official duties shall be provided at the expense of the Judiciary budget.

(3) Upon termination of their labour legal relationship, recordation judges shall be paid compensation subject to the terms of Article 225.

### **Article 293**

Unless otherwise provided for in this Chapter, the Labour Code shall apply.

## **Chapter fourteen**

# **OBTAINING COMPETENCY**

### **Article 294**

(1) Those who have completed higher education in the specialty area of law shall obtain legal competency after a 6-month internship as trainee lawyers and an examination.

(2) During their internship, trainee lawyers shall gain practical knowledge of the main functions and the organisation of operations of judicial system bodies and be involved in drafting the acts thereby adopted.

### **Article 295**

(1) A trainee lawyer may be a Bulgarian national, a national of another EU member-state or a foreign national who has completed higher education in the specialty area of law in the Republic of Bulgaria.

(2) A trainee lawyer may also be a Bulgarian national, a national of another EU member-state or a foreign national who has completed higher education in the specialty area of law abroad, provided that the diploma acquired by him is recognised in the Republic of Bulgaria and has been legalised.

### **Article 296**

A candidate trainee lawyer shall file with the Ministry of Justice:

1. A written application stating his full name, personal identity number or foreign national personal number and his permanent address,

2. A notarised copy of his diploma or certificate of completed higher education in the specialty area of law,
3. An abstract of his criminal record,
4. A copy of an identity paper,
5. A copy of his certificate of residence, in the case of nationals of another EU member-state.

### **Article 297**

(1) The Minister of Justice shall assign the trainee lawyer to a regional court in the judicial area of which he has his permanent address. By way of exception, where important circumstances so require, a trainee lawyer may be assigned to another judicial area.

(2) During his internship a trainee lawyer shall not receive remuneration and the term of internship shall not count toward his social security record.

(3) (Amended, SG No. 33/2009) Internship shall take place at a district court, at a regional court, at a district prosecution office and at a regional prosecution office, at a regional investigation department, as well as with an attorney-at-law and a notary public, in accordance with a procedure determined by the chairperson of the regional court.

(4) The internship shall commence the day on which the trainee lawyer has been admitted to the respective regional court. Upon admission, the trainee lawyer shall be issued an internship booklet.

(5) (Amended, SG No. 1/2011, effective as of 4.01.2011) Internship shall be deemed completed where the internship booklet has been duly certified by the respective court, prosecution office and investigation department.

### **Article 298**

(1) After completion of the internship, the trainee lawyer shall sit for an examination to the purpose of obtaining legal competency.

(2) In order to sit for the examination, the trainee lawyer shall file a written application with the Minister of Justice c/o the chairperson of the respective regional court, to which his internship booklet shall be attached.

### **Article 299**

(1) By order the Minister of Justice shall set the date and time for the examination leading to the obtainment of legal competency, the composition of the examination commission, as well as the trainee lawyers admitted for examination.

(2) The date, time of and the list of trainee lawyers admitted for examination shall be announced within three days prior to the examination date at the Ministry of Justice and shall be published on its website.

(3) The examination shall take place at the Ministry of Justice on a questionnaire endorsed by the Minister.

(4) The examination shall be conducted by a three-member commission composed of a chairperson, i.e. representing the Inspectorate with the Minister of Justice, and the following members, i.e. a representative of the judicial system bodies and of the Supreme Bar Council. The judicial system bodies and those of the Supreme Bar Council shall notify the Minister of Justice of the representatives designated by them.

### **Article 300**

(1) The examination leading to the obtainment of legal competency shall be marked with "pass" or "fail". The results of this examination shall be entered on a record of proceedings that shall be signed by the members of the examination commission and stored at the Ministry of Justice.

(2) A trainee lawyer marked with "fail" shall be entitled to re-sit for the examination after an additional two-month internship.

### **Article 301**

The Minister of Justice shall issue a certificate of legal competency to a trainee lawyer who has been marked with "pass".

## **Chapter fifteen**

### **INCENTIVES**

### **Article 302**

The Supreme Judicial Council may propose to the President of the Republic of Bulgaria the award of orders or medals to judges, prosecutors and investigating magistrates for their exceptional or significant contribution in the exercise of judicial powers.

### **Article 303**

(1) For a high standard of professionalism, exemplary discharge of the official duties and a high standard of ethics, the Supreme Judicial Council may provide incentives to a judge, prosecutor and investigating magistrate, taking the form of a token of appreciation or an award.

(2) There shall be the following tokens of appreciation:

1. Expression of official gratitude and a certificate;

2. Personal sign of honour:

- a) First degree - in gold,
- b) Second degree - in silver;

3. Early promotion in rank.

(3) The award at the amount of up to one basic monthly remuneration shall be:

- 1. Either pecuniary,
- 2. Or an item.

(4) A token of appreciation may be combined with an award.

#### **Article 304**

(1) (Amended, SG No. 1/2011, effective as of 4.01.2011) The Minister of Justice, the Chairperson of the Supreme Court of Cassation, the Chairperson of the Supreme Administrative Court, the Prosecutor General, the Director of the National Investigation Service, a chairperson of an appellate, appellate specialised criminal, appellate military, regional, specialised criminal or administrative court, the appellate, appellate military, regional and military regional prosecutor, the head of the specialised and of the appellate specialised prosecution office, as well as one-fifth of the members of the Supreme Judicial Council and the respective professional organisation shall make a proposal for the provision of incentives to the Supreme Judicial Council.

(2) The Inspectorate at the Supreme Judicial Council may propose the provision of incentives to the respective administrative head.

#### **Article 305**

(1) The Minister of Justice may provide incentives in the form of a token of appreciation or an award to a state enforcement agent or a to a recordation judge for a high standard of professionalism, exemplary discharge of the official duties and a high standard of ethics in public life.

(2) There shall be the following tokens of appreciation:

- 1. Expression of official gratitude and a certificate;
- 2. Personal sign of honour:
  - a) First degree - in gold,
  - b) Second degree - in silver;



(3) The award at the amount of up to one basic monthly remuneration shall be:

1. Either pecuniary,
2. Or an item.

(4) A token of appreciation may be combined with an award.

### **Article 306**

The chairperson of the respective district court or the Inspector General at the Inspectorate with the Minister of Justice shall propose the provision of incentives to the Minister of Justice.

## **Chapter sixteen**

# **DISCIPLINARY RESPONSIBILITY**

### **Article 307**

(1) A judge, prosecutor, investigating magistrate, state enforcement agent and a recordation judge shall be disciplined where they have committed a disciplinary offence.

(2) (New, SG No. 103/2009, effective 29.12.2009) An elected member of the Supreme Judicial Council shall be disciplined where they have committed a severe offence or systematic failure to perform official duties, as well as in respect of actions which impair the prestige of the judiciary.

(3) (Renumbered from Paragraph 2, SG No. 103/2009, effective 29.12.2009) A disciplinary offence shall be the guilty failure of a judge, prosecutor and investigating magistrate in fulfilling their official duties.

(4) (Renumbered from Paragraph 3, SG No. 103/2009, effective 29.12.2009) Disciplinary offences shall be:

1. The systematic failure to observe terms provided for in procedural laws,
2. (Amended, SG No. 33/2009) Any act or omission slowing down proceedings without justification,
3. (Amended, SG No. 33/2009, SG No. 1/2011, effective as of 4.01.2011) Any breach of the Code of Ethical Behaviour of Bulgarian Magistrates
4. (Amended, SG No. 33/2009) Any act or omission undermining the prestige of the Judiciary,
5. Failure to discharge any other official duties.

(5) (New, SG No. 103/2009, effective 29.12.2009) An elected member of the Supreme Judicial Council who has been relieved from office early due to a resignation submitted on the grounds of Article 130(8)(1) of the Constitution of the Republic of Bulgaria shall incur disciplinary liability for any actions impairing the prestige of the judiciary if the elected member concerned has been reinstated in the service as a judge, prosecutor or investigating magistrate.

(6) (Renumbered from Paragraph 4, SG No. 103/2009, effective 29.12.2009, amended, SG No. 1/2011, effective as of 4.01.2011) Except for the breaches under para 4 disciplinary responsibility shall be also born by:

1. the respective administrative head - in case of failure to exercise control pursuant to Article 143, para 4;

2. a military judge, a military prosecutor and a military investigating magistrate - for breaches specified in the special laws and statutes,

(7) (Renumbered from Paragraph 5, SG No. 103/2009, effective 29.12.2009) Disciplinary liability shall be incurred irrespective of civil, criminal or penal administrative liability, should any of the latter be envisaged.

### **Article 308**

(1) The disciplinary sanctions for a judge, prosecutor, investigating magistrate, administrative head and a deputy of an administrative head shall be:

1. Reprimand,

2. Censure,

3. Reduction of the basic labour remuneration by 10 to 25 percent for a term of 6 months to two years,

4. Demotion in rank or position at the same judicial system body for a term of one to three years,

5. Relief from office as administrative head or deputy of an administrative head,

6. Disciplinary relief from office.

(2) The disciplinary sanctions for state enforcement agents and for recordation judges shall be:

1. Reprimand,

2. Censure,

3. Warning of dismissal,

4. Dismissal.

(3) (New, SG No. 103/2009, effective 29.12.2009) An elected member of the Supreme Judicial Council shall be disciplined for disciplinary offence committed under Article 307(2) by relief from office.

(4) (Renumbered from Paragraph 3, SG No. 103/2009, effective 29.12.2009) One disciplinary sanction shall only be imposed for one and the same disciplinary offence.

### **Article 309**

When setting the disciplinary sanction, the gravity of the offence, the form of guilt, the surrounding circumstances and the conduct of the offender shall be taken into consideration.

### **Article 310**

(1) (Amended, SG No. 33/2009) Disciplinary proceedings shall be opened by an order or respectively a resolution by the sanctioning body within six months of discovery, but not later than three years of commission of the offence. Where such time limits have expired, no disciplinary proceedings shall be opened.

(2) Disciplinary proceedings shall end within up to three months from being instituted, expiry of said term not constituting valid grounds for liability ceasing to exist.

(3) (Supplemented, SG No. 33/2009, amended, SG No. 103/2009, effective 29.12.2009) Where an offence takes the form of an omission to act, the terms under para 1 shall start running from the discovery thereof. In case of an offence under the third scenario of Article 307(2), or under Article 307(4), item 4, the time limits referred to in para 1 shall start running from the public announcement of the acts impairing the prestige of the judiciary.

(4) (Amended, SG No. 33/2009) In the case of a disciplinary offence which is also a crime established by virtue of an effective sentence or an effective ruling on termination of the criminal proceedings on the grounds of Article 24, para 1, items 2 and 3 and para 3 of the Criminal Procedure Code, the terms under para 1 shall start running from the entry into force of such sentence or ruling.

(5) The terms under para 1 shall not run during legally established leave of the individual concerned.

### **Article 311**

A disciplinary sanction shall be imposed by:

1. The administrative head, as regards the sanctions under Article 308, para 1, items 1 and 2 served on a judge, prosecutor or an investigating magistrate;

2. The Supreme Judicial Council, as regards the sanctions:

a) under Article 308, para 1, items 2, 4, and 6 served on a judge, prosecutor or an investigating magistrate,

b) served on an administrative head or a deputy of an administrative head;

c) (New, SG No. 103/2009, effective 29.12.2009) under Article 308(3) of an elected member of the Supreme Judicial Council;

3. The Minister of Justice, in respect to the sanctions served on a state enforcement agent or a recordation judge.

### **Article 312**

(1) A proposal for the imposition of a disciplinary sanction on a judge, prosecutor, investigating magistrate, administrative head or a deputy of an administrative head can be made by:

1. The respective administrative head,
2. Any higher-standing administrative head,
3. The Inspectorate at the Supreme Judicial Council,
4. No less than one-fifth of the Supreme Judicial Council members,
5. The Minister of Justice.

(2) A proposal for the imposition of a disciplinary sanction on a state enforcement agent or a recordation judge can be made by the administrative head of the respective regional or district court or by the Inspector General of the Inspectorate with the Minister of Justice.

### **Article 313**

(1) (Amended, SG No. 33/2009) Prior to imposing a disciplinary sanction, the sanctioning body - in the cases referred to in Article 311, items 1 and 3, and the disciplinary panel - in the cases referred to in Article 311, item 2, shall hear the disciplinary defendant or take his written explanation and shall collect the evidence of relevance to the case.

(2) (Amended, SG No. 33/2009) Where the disciplinary defendant has not been heard or his written explanation has not been taken, the court shall repeal the imposed disciplinary sanction without examining the case on its merits, unless the defendant has failed to provide explanations or has not been heard for reasons attributable to him.

(3) Until entry into force of the order or of the decision for imposition of a disciplinary

sanction, no facts or circumstances concerning the disciplinary proceedings may be disclosed.

#### **Article 314**

(1) Disciplinary sanctions under Article 308, para 1, items 1 and 2 shall be imposed by a reasoned order of the administrative head on a judge, prosecutor or investigating magistrate who is a disciplinary defendant.

(2) The administrative head shall notify the Supreme Judicial Council of the imposed sanction, forwarding the file and the order immediately after issuance of the latter.

(3) The Supreme Judicial Council, within up to one month of receiving the order under para 2, may uphold, repeal or modify the imposed sanction in pursuance of the general procedure.

(4) The order of the administrative head for the imposition of a disciplinary sanction may not be separately appealed before court.

(5) Where in the course of disciplinary proceedings it is established that there are grounds for the imposition of a sanction under Article 308, para 1, items 3, 4, and 6, the administrative head shall suspend the disciplinary proceedings, making a proposal for the imposition of the sanction to the Supreme Judicial Council and sending the file to the latter.

#### **Article 315**

Disciplinary sanctions under Article 308, para 2 shall be imposed by a reasoned order of the Minister of Justice.

#### **Article 316**

(1) (Amended, SG No. 103/2009, effective 29.12.2009) Disciplinary sanctions under Article 308, para 1, items 3, 4 and 6 served on a judge, prosecutor and an investigating magistrate, disciplinary sanctions served on an administrative head or a deputy of the administrative head, as well as disciplinary sanctions under Article 308(3) served on an elected member of the Supreme Judicial Council shall be imposed by a resolution of the Supreme Judicial Council.

(2) Disciplinary proceedings shall be instituted within 7 days of receipt of a proposal to this effect.

(3) When instituting disciplinary proceedings, the Supreme Judicial Council shall designate by a draw of lots from among its members a three-member disciplinary panel. The members of the disciplinary panel shall elect a presiding member.

(4) The presiding member of the disciplinary panel shall schedule a hearing within 7 days of the institution of disciplinary proceedings.

(5) (Amended, SG No. 33/2009) Copies of the proposal for imposition of a disciplinary

sanction and of the written evidence attached thereto shall be sent to the disciplinary defendant who, within 7 days of the notification made in pursuance of the Administrative Procedure Code, may file written objections and indicate evidence.

### **Article 317**

(1) The disciplinary defendant and the author of the proposal shall be notified of the hearing conducted by the disciplinary panel.

(2) Once disciplinary proceedings have been instituted, the author may not withdraw his proposal.

### **Article 318**

(1) (Amended, SG No. 33/2009) Hearings conducted by the disciplinary panel shall be held in camera.

(2) The disciplinary defendant shall be entitled to have defence provided by an attorney-at-law.

(3) (Amended, SG No. 33/2009) The disciplinary panel shall elucidate the facts and circumstances surrounding the offence, being allowed to gather verbal, written and material evidence, including through the services of a delegated member, as well as to hear expert witnesses in accordance with the Administrative Procedure Code.

(4) The author of the proposal or a representative thereby authorised, the disciplinary defendant and his defence counsel shall be heard by the disciplinary panel in case they attend the hearing.

### **Article 319**

(1) (Amended, SG No. 33/2009) Within 14 days of the last hearing the disciplinary panel shall adopt a resolution, establishing the facts subject to substantiation; give an opinion on the circumstances and the legal basis for the imposition of a disciplinary sanction and propose the type and amount of such sanction.

(2) The decisions of the disciplinary panel shall be adopted by a majority of more than half its members.

### **Article 320**

(1) (Amended, SG No. 33/2009) Within three days of adopting a decision, the disciplinary panel shall transmit it to the acting chairperson of the Supreme Judicial Council together with the case file to the purpose of their immediate submission to the Supreme Judicial Council.

(2) (Amended, SG No. 33/2009) The Supreme Judicial Council shall examine the proposal of the disciplinary panel for the imposition of a disciplinary sanction within 14 days of its

submission.

(3) (Supplemented, SG No. 1/2011, effective as of 4.01.2011) The Supreme Judicial Council may reject the proposal for the imposition of a disciplinary sanction or impose a disciplinary sanction including the sanctions under Article 308, para 1, items 1 and 2.

(4) The resolution of the Supreme Judicial Council shall be adopted by a majority of more than half its members and it shall be reasoned. The reasoning for the decision of the disciplinary panel, as well as any considerations shared by Supreme Judicial Council members, shall count as reasoning for the resolution.

(5) (Amended, SG No. 33/2009) The resolution of the Supreme Judicial Council shall be immediately notified in pursuance of the Administrative Procedure Code to the disciplinary defendant and to the author of the proposal.

### **Article 321**

A disciplinary sanction shall be imposed on a state enforcement agent or on a recordation judge by the Minister of Justice after a hearing of the individual or presenting him with the opportunity to submit written objections against the proposal within a period of 7 days.

### **Article 322**

A disciplinary sanction shall be deemed imposed on the day of notification to the disciplinary defendant of the Supreme Judicial Council's resolution or of the order of the Minister of Justice.

### **Article 323**

(1) (Amended, SG No. 33/2009) The resolution of the Supreme Judicial Council or the order of the Minister of Justice may be appealed against before the Supreme Administrative Court within 7 days of notification, by the individual who has been imposed a disciplinary sanction and by the author of the proposal.

(2) The appeal shall not suspend execution, unless the Supreme Administrative Court decides otherwise.

(3) The appeal shall be examined by a three-member panel of the Supreme Administrative Court within one month of being received in court.

(4) (Amended, SG No. 33/2009) The judgement of the three-member panel of the Supreme Administrative Court shall be subject to appeal on points of law within 7 days after being announced, before a five-member panel of the Supreme Administrative Court. The five-member panel shall examine the case within one month after the appeal on points of law is received.

(5) (Repealed, SG No. 33/2009).

### **Article 324**

(Amended, SG No. 103/2009, effective 29.12.2009)

The effective resolution for the imposition of a disciplinary sanction on a judge, prosecutor, investigating magistrate, an administrative head and on a deputy of an administrative head, as well as on an elected member of the Supreme Judicial Council shall be posted on the website of the Supreme Judicial Council.

### **Article 325**

(1) The effective resolution of the Supreme Judicial Council for the imposition of a disciplinary sanction shall be subject to immediate execution.

(2) The effective resolution for the imposition of the disciplinary sanction of demotion in rank or position or of relief from the office of administrative head or of a deputy of an administrative head shall also be a basis for the reduction of remuneration received by the judge, prosecutor or investigating magistrate concerned in line with the lower rank or position, for the term of the sanction involved.

### **Article 326**

(1) A disciplinary sanction, with the exception of relief from office or of dismissal, shall be deleted one year after having been served.

(2) The deletion of the disciplinary sanction of relief from the office of administrative head or of a deputy of an administrative head shall not be a basis for the reinstatement of the individual to the position from which he has been relieved.

(3) A disciplinary sanction, with the exception of disciplinary relief from office or dismissal, may also be deleted prior to the expiry of the term under para 1, but no earlier than 6 months following its imposition, by the body which has imposed it, provided the individual on whom it has been served has not committed any other offence.

(4) Early deletion of a disciplinary sanction shall occur at the initiative of the administrative head or of the bodies or the persons that have made a proposal for its imposition.

(5) Deletion shall act ex nunc.

### **Article 327**

(Amended, SG No. 33/2009)

An administrative head may draw the attention of judges from the district, regional, administrative and appellate court, of prosecutors from the district, regional and appellate prosecution offices, and of investigating magistrates from the National Investigation Service to any breaches they have allowed to occur in the institution and progress of cases or in the



organisation of their work, the Supreme Judicial Council being notified thereof.

### **Article 328**

(Amended, SG No. 33/2009)

Insofar as this Chapter contains no special rules, those of the Administrative Procedure Code shall apply.

## **Chapter seventeen**

### **COURT VACATION. TYPES OF LEAVE**

### **Article 329**

(1) The courts shall be on vacation from 15 July until 1 September.

(2) Prosecutors and investigating magistrates, state enforcement agents and recordation judges shall not have the benefit of court vacation.

(3) The following shall be examined during the court vacation:

1. Criminal cases in which a measure of remand in custody has been adopted;

2. Cases for alimony, parental rights of children under age and for illegal dismissal;

3. Requests for the provision of security for claims, for evidence, for the obtainment of authorisations and orders under the Family Code, for the appointment of special representatives;

4. Bankruptcy cases;

5. (Amended, SG No 102/2009, effective 22.12.2009) Cases under the Protection from Domestic Violence Act;

6. Cases the examination of which is stipulated by law within less than a month;

7. (New, SG No. 33/2009) Child adoption cases;

8. (Renumbered from Item 7, SG No. 33/2009) Other cases, based on the judgement of the administrative head of the court or prosecution office or of the Minister of Justice.

(4) The administrative heads of courts and prosecution offices shall ensure during court vacation a sufficient number of judicial panels and prosecutors for the examination of the above cases and requests.

### **Article 330**

(1) A judge, prosecutor, investigating magistrate, state enforcement agent and a recordation judge shall have the right to a regular paid annual leave of 30 business days and to additional leave at the amount of one business day for any two years of legal service on record.

(2) The total amount of leave under para 1 may not exceed 60 calendar days.

### **Article 331**

(1) A judge, prosecutor, investigating magistrate, state enforcement agent or a recordation judge may be allowed unpaid leave.

(2) Unpaid leave of up to 30 business days in a calendar year shall count as legal service record.

### **Article 332**

(1) A judge, prosecutor, investigating magistrate, state enforcement agent or a recordation judge shall have the right to leave:

1. For contracting marriage, of two business days,

2. In the event of donating blood, on the day of the examination and blood donation and a day thereafter,

3. In the event of death of a parent, child, spouse, brother, sister or relative of the spouse, as well as of other relatives of direct lineage without limitation, of two business days.

4. Where he has been summonsed to court as a party or witness,

5. During training and participation in voluntary formations under the Protection from Disasters Act.

(2) A state enforcement agents or recordation judge shall also have the right to leave when called to a field training event, for the duration thereof, including the days of travel to and from it. Where the field training event lasts 15 or more days, the state enforcement agents and the recordation judge shall have the right to two calendar days of paid leave prior to their departure and to two days after their return.

(3) During leaves under para 1, items 1 - 3, the remuneration for the position held shall be paid, and under para 1, items 4 and 5 or under para 2 - subject to the provisions of special laws.

### **Article 333**

A judge, prosecutor, investigating magistrate, state enforcement agent or recordation judge shall have the right to leave for temporary work disability, pregnancy, birth and adoption, for raising a young child, for lactation and feeding of a young child, in the event of death or serious disease of a parent, subject to the conditions and at the amounts provided for in the Labour Code

and the Social Security Code.

### **Article 334**

(1) For the duration of his participation in qualification improvement and prequalification courses, a judge, prosecutor, investigating magistrate, state enforcement agent or a recordation judge shall be on official paid leave.

(2) For the duration of an election campaign when a judge, prosecutor, investigating magistrate, state enforcement agent and a recordation judge runs for elected office at state bodies, he shall be on official paid or unpaid leave.

(3) A judge, prosecutor, investigating magistrate, state enforcement agent or a recordation judge who has been sent away to improve his qualifications by a judicial system body or the Minister of Justice for a period of more than three months, shall be obligated to work at the respective body for a period of no less than three years after his return. Where the individual terminates his legal relationship prior to the expiry of said period, he shall retribute the full amount he has received for the trip.

### **Article 335**

A judge, prosecutor, investigating magistrate, state enforcement agent and a recordation judge shall also have the right to leave for training subject to the conditions, in pursuance of the procedure and at the amounts provided for in the Labour Code.

### **Article 336**

A judge, prosecutor or a clerk of court shall use his regular annual paid leave during the court vacation and where this is not possible - at another time throughout the year.

### **Article 337**

Based on a judgement of the administrative head, a judge, prosecutor, investigating magistrate, state enforcement agent or a recordation judge shall not be able to use leave other than in the event of temporary work disability, before he has prepared his acts and returned the cases assigned to him.

### **Article 338**

The use of leave other than for temporary work disability, shall be authorised by:

1. The chairperson of the district court, for judges at the regional court, for state enforcement agents and recordation judges,

2. The chairperson of the regional court, for judges at the regional court and for chairpersons of district courts,

3. The chairperson of the military court, for judges at the military court,
4. (New, SG No. 1/4.01.2011, effective as of 4.01.2011) The chairperson of the specialised criminal court - for judges of this court;
5. (Renumbered from Item 4, SG No. 1/2011, effective as of 4.01.2011) The chairperson of the administrative court, for judges at the administrative court,
6. (Renumbered from Item 5, SG No. 1/2011, effective as of 4.01.2011) The chairperson of the appellate court, for judges at the appellate courts and for the chairpersons of regional courts,
7. (Renumbered from Item 6, SG No. 1/2011, effective as of 4.01.2011) The chairperson of the appellate military court, for judges of the appellate military court and the chairpersons of the military courts,
8. (New, SG No. 1/4.01.2011, effective as of 4.01.2011) The chairperson of the appellate specialised criminal court - for judges of the appellate specialised criminal court and for the chairperson of the specialised criminal court;
9. (Renumbered from Item 7, supplemented, SG No. 1/2011, effective as of 4.01.2011) The chairperson of the Supreme Court of Cassation, for judges at the Supreme Court of Cassation and for the chairpersons of appellate courts and of the appellate military court and the appellate specialised criminal court.
10. (Renumbered from Item 8, SG No. 1/2011, effective as of 4.01.2011) The chairperson of the Supreme Administrative Court, for judges at the Supreme Administrative Court and for chairpersons of administrative courts,
11. (Supplemented, SG No. 33/2009, renumbered from Item 9, SG No. 1/2011, effective as of 4.01.2011) The regional prosecutor, for prosecutors at the regional and at district prosecution offices and investigating magistrates at a regional investigation department,
12. (Renumbered from Item 10, SG No. 1/2011, effective as of 4.01.2011) The appellate prosecutor, for prosecutors at the appellate prosecution office and for regional prosecutors,
13. (Renumbered from Item 11, SG No. 1/2011, effective as of 4.01.2011) The regional military prosecutor, for prosecutors at the regional military prosecution office and for military investigating magistrates,
14. (Renumbered from Item 12, SG No. 1/2011, effective as of 4.01.2011) The appellate military prosecutor, for prosecutors at the appellate military prosecution office and for regional military prosecutors,
15. (New, SG No. 1/4.01.2011, effective as of 4.01.2011) The head of the specialised prosecution office - for prosecutors and investigating magistrates of the specialised prosecution office; the head of the appellate specialised prosecution office - for prosecutors of the appellate specialised prosecution office and for the head of the specialised prosecution office;

16. (Amended, SG No. 33/2009, renumbered from Item 13, supplemented, SG No. 1/2011, effective as of 4.01.2011) The Prosecutor General, for prosecutors at the Supreme Prosecution Office of Cassation and at the Supreme Administrative Prosecution Office, for appellate prosecutors and the appellate military prosecutor, the head of the appellate specialised prosecution office and the Director of the National Investigation Service,

17. (Amended, SG No. 33/2009, renumbered from Item 14, SG No. 1/2011, effective as of 4.01.2011) The Director of the National Investigation Service, for investigating magistrates at the National Investigation Service.

### **Article 339**

The Labour Code shall apply to matters that have not been provided for under this Chapter.

## **Chapter eighteen ADMINISTRATION OF THE JUDICIAL SYSTEM BODIES**

### **Article 340**

(1) (Supplemented, SG No. 1/2011, effective as of 4.01.2011) In the discharge of its powers the Supreme Judicial Council, the Inspectorate at the Supreme Judicial Council the National Institute of Justice and the judicial system bodies shall be assisted by administration.

(2) (Amended, SG No. 33/2009, amended and supplemented, SG No. 1/2011, effective as of 4.01.2011) The administration of judicial system bodies shall be the administration of the Supreme Court of Cassation, of the Supreme Administrative Court, of the Prosecutor General, of the supreme prosecution office of cassation, of the supreme administrative prosecution office, of the National Investigation Service, of the courts, the prosecution offices, the regional investigation departments and the investigation department at the specialised prosecution office.

(3) (Amended, SG No. 1/2011, effective as of 4.01.2011) Officers of the administration of the Supreme Judicial Council, of the Inspectorate at the Supreme Judicial Council of the National Institute of Justice and of the judicial system bodies shall be clerks of court.

### **Article 341**

(1) The Supreme Judicial Council shall issue a classifier of the positions in the administration, specifying their names, the minimum education degree and other requirements to the respective position, the remuneration for a given position, the rank for a given position and the remuneration for a given rank.

(2) (Amended, SG No. 33/2009, amended, SG No. 1/2011, effective as of 4.01.2011) The number of clerks of court for each judicial system body shall be set by the Supreme Judicial

Council at the proposal of the respective administrative head in compliance with the workload level of the judiciary body determined by the Supreme Judicial Council.

#### **Article 342**

(1) (Amended, SG No. 33/2009) The Supreme Judicial Council shall adopt Regulations for the administration of judicial system bodies.

(2) (Amended, SG No. 33/2009) The Regulations shall specify the units of the administration, their functional characteristics, the work organisation in the administration of judicial system bodies, the plan of positions, the types of job descriptions for the clerks of court, the competition procedure, the incompatibility terms for clerks of court and their appointing bodies.

(3) Regulations shall be published in the State Gazette.

#### **Article 343**

(1) A clerk of court whose business is associated with the discharge of the powers of bodies under Article 340, para 1, shall be appointed after competition.

(2) (Supplemented, SG No. 1/2011, effective as of 4.01.2011) When a clerk of court is appointed to another position at the Supreme Judicial Council, the Inspectorate at the Supreme Judicial Council, the National Institute of Justice or at the same judicial system body, as well as in the event of transfer, no competition shall take place.

#### **Article 344**

The appointing body shall be held to provide the clerk of court with the conditions required for the discharge of his official duties, as well as for improvement of his qualifications or for prequalification.

#### **Article 345**

(1) A clerk of court shall be held to discharge his duties in good faith and with precision, in accordance with his job description.

(2) Additional duties may be assigned to a clerk of court temporarily - up to 45 days in a year, in the event of service need.

(3) In the event of service need, a clerk of court shall also be held to discharge his official duties outside normal business hours.

(4) For discharging his official duties on days off and during holidays at the personal order of the respective head, a clerk of court shall receive additional remuneration at the amount specified by the Supreme Judicial Council.

### **Article 346**

A clerk of court shall be held to keep as official secret the information of which he has gained knowledge as part of his office and which affects the interests of citizens, legal entities and the state.

### **Article 347**

While discharging his official duties and in public, a clerk of court should adopt a conduct that is not detrimental to the prestige of the Judiciary.

### **Article 348**

A clerk of court shall be entitled to a basic monthly remuneration specified for the position held at the amount of 80 percent of the remuneration of a court administrator.

### **Article 349**

(1) Rank shall be the expression of the level of professional qualifications of a clerk of court.

(2) Ranks for the clerks of court shall be from five to one, in the ascending order. Upon initial appointment to judicial system bodies a clerk of court shall be attributed the minimum rank for the respective position, as specified in the classifier under Article 341.

(3) The terms and procedure for the attribution of ranks and for promotion in rank shall be specified in Regulations under Article 342, para 1.

### **Article 350**

The Supreme Judicial Council shall specify the amount of annual leave for clerks of court and the amount of additional paid annual leave for work outside normal business hours and for the discharge of additional duties by a clerk of court.

### **Article 351**

(1) Mandatory social security and health insurance of clerks of court shall be provided at the expense of the Judiciary budget.

(2) A clerk of court shall be mandatorily insured against accident at the expense of the Judiciary budget.

### **Article 352**

Every year clerks of court shall be paid an amount for clothing equalling two average monthly salaries of budget-funded employees.

### **Article 353**

In the discharge of his official duties a clerk of court shall identify himself using an office card.

### **Article 354**

A clerk of court having obtained entitlement to a retirement pension for length of social security service record and old age, upon relief from office shall have the right to a one-off pecuniary compensation equalling the number of gross monthly remunerations for each year in service with the judicial system bodies, but not more than 10 gross monthly remunerations.

### **Article 355**

(1) The administration of the Supreme Judicial Council shall be headed by a Secretary General.

(2) An individual meeting the requirements of Article 164, para 2 may be appointed as Secretary General of the Supreme Judicial Council.

(3) A Secretary General shall be appointed by resolution of the Supreme Judicial Council after competition.

(4) While in office, the Secretary General of the Supreme Judicial Council may not be a member of a political party or coalition, an organisation with a political goal, as well as exercise any political activity.

(5) The Secretary General shall:

1. Appoint and relieve from office the officers in the administration of the Supreme Judicial Council,

2. Manage human resources in the administration of the Supreme Judicial Council,

3. Provide methodological guidance to and control court administrators.

(6) The Secretary General shall receive basic monthly remuneration at the amount of 80 percent of that paid to a judge at the Supreme Court of Cassation.

(7) (Amended, SG No. 1/2011, effective as of 4.01.2011) Time in service as Secretary General of the Supreme Judicial Council shall count as service record under Article 164, paras 1 - 7.

(8) The units in the administration of the Supreme Judicial Council, the functional characteristics, position plans, the types of job descriptions of the clerks and the work organisation of the administration shall be set out in the Regulations under Article 30, para 4.



### **Article 356**

(1) The administration of the Inspectorate at the Supreme Judicial Council shall be headed by a Secretary General.

(2) An individual meeting the requirements of Article 164, para 2 may be appointed as Secretary General.

(3) The Secretary General shall be appointed at the order of the Inspector General after competition.

(4) While in office, the Secretary General of the Inspectorate at the Supreme Judicial Council may not be a member of a political party or coalition, an organisation with a political goal or carry out any political activity.

(5) The Secretary General shall:

1. (Amended, SG No. 33/2009) Suggest to the Inspector General that officers be appointed or relieved from office in the administration of the Inspectorate at the Supreme Judicial Council,

2. Manage human resources in the administration of the Inspectorate at the Supreme Judicial Council.

(6) The Secretary General shall receive basic remuneration at the amount of 80 percent of the remuneration of a judge at the Supreme Court of Cassation.

(7) (Amended, SG No. 1/2011, effective as of 4.01.2011) Time in service as Secretary General of the Inspectorate at the Supreme Judicial Council shall count as service record under Article 164, paras 1 - 7.

(8) (Amended, SG No. 1/2011, effective as of 4.01.2011) The units in the administration of the Inspectorate at the Supreme Judicial Council, the functional characteristics, position plans, the types of job descriptions of the clerks and the work organisation of the administration shall be set out in the Regulations under Article 55, para 5.

### **Article 357**

(1) (Amended, SG No. 33/2009) The administrations of the Supreme Court of Cassation, the Supreme Administrative Court and of the Prosecutor General shall be headed by Secretaries General.

(2) The administrations of the courts and prosecution offices shall be headed by court administrators.

(3) (Amended, SG No. 33/2009) The appointment of a Secretary General and of a court administrator shall take place after a competition organised by the administrative head of the relevant judicial system body.

(4) (Amended, SG No. 33/2009) The competition shall be conducted by a commission comprised of three to five members, appointed by a written order by the administrative head of the relevant judicial system body for which the competition for a Secretary General or a court administrator has been announced.

(2) While in office, the Secretary General and the court administrator may not be members of a political party or coalition, an organisation with a political goal and carry out political activity.

(6) Occupational requirements for the position of a secretary general and a court administrator shall be specified in the Regulations under Article 342, para 1.

(7) The Secretary General and the court administrator shall:

1. Plan, organise and manage the clerks of court,

2. (Amended, SG No. 33/2009) Be in charge of managing administrative business at the respective court and prosecution office,

3. Introduce programme applications for the purposes of long-term planning, budget policy, finance, automation, equipment supplies and public relations.

(8) The Secretary General shall receive a basic monthly remuneration at the amount of 80 percent of the basic remuneration of a judge at the Supreme Court of Cassation.

(9) A court administrator shall receive basic remuneration at the amount of 80 percent of the basic remuneration of a judge at the respective court.

(10) (New, SG No. 1/4.01.2011, effective as of 4.01.2011) The time served as Secretary General of the Supreme Court of Cassation, of the Supreme Administrative Court and of the Prosecutor General shall count as service record under Article 164, paras 1-7 for persons with higher education in law.

### **Article 358**

(1) The activity of judicial system bodies for the provision of information to the public and for ensuring relations with the mass media shall be assisted by press offices.

(2) The status, rights and duties of officers at press offices shall be specified in the Regulations under Article 55, para 4 and Article 342, para 1.

### **Article 358a**

(New, SG No, 1/2011, effective as of 4.01.2011)

(1) Clerks of court may be stimulated with a distinction or an award for high

professionalism, exemplary exercise of official duties and high moral characteristics.

(2) The distinctions shall be:

1. official acknowledgment and diploma;
2. promotion in rank ahead of schedule;

(3) The award amounting up one-months remuneration shall be:

1. pecuniary
2. in kind.

(4) The distinction may be combined with an award.

#### **Article 358b**

(New, SG No, 1/2011, effective as of 4.01.2011)

(1) Clerks of court may establish and be members of organisations which defend their professional interests.

(2) The organisations under para 1 may not be members of federations and confederations of trade union organisations of workers and employees.

#### **Article 359**

The Labour Code shall apply to matters of concern to clerks of court that have not been provided for under this Chapter.

#### **Article 360**

(1) In the presence of appropriate technical capabilities, all acts and documents in the cases shall also be prepared on electronic carriers.

(2) Where a pending case or file has to be annexed to another case, materials shall be fully copied, such copies being certified by the body before which proceedings are pending and sent to the purpose of being annexed.

## **Chapter nineteen**

# **JUDICIARY BUDGET**

#### **Article 361**

(1) A separate Judiciary budget shall be part of the state budget.

(2) The Judiciary budget shall consist of the budgets of the Supreme Judicial Council, the Inspectorate at the Supreme Judicial Council, the judicial system bodies that are legal entities and of the National Institute of Justice.

(3) (Amended, SG No. 33/2009) The Judiciary budget shall include all revenues from the operation of judicial system bodies and of the National Institute of Justice, the expenses for the support of judicial system bodies, of the Inspectorate at the Supreme Judicial Council and of the National Institute of Justice, with the exception of expenses that by virtue hereof have been attributed to the budget of the Ministry of Justice, the interrelations with the central budget and other budgets and the funding of the budget balance.

(4) (New, SG No. 33/2009) Any revenue underperformance in the budget of the Judiciary for the relevant year shall be at the expense of unutilised cash from the previous year and an additional subsidy from the central budget.

### **Article 362**

(Amended, SG No. 33/2009)

The Minister of Justice shall draft a budget for the Judiciary and table it before the Supreme Judicial Council for discussion.

### **Article 363**

The draft Judiciary budget shall be accompanied by estimates for the upcoming two years.

### **Article 364**

(1) The Council of Ministers shall table to the National Assembly a draft State Budget of the Republic of Bulgaria Act for the respective year together with the draft annual Judiciary budget as proposed by the Supreme Judicial Council, with a detailed rationale.

(2) When adopting the state budget the National Assembly shall hear a report of the Supreme Judicial Council submitted by its representative, immediately after the report of the Council of Ministers.

(3) The National Assembly shall adopt the budget of the Judiciary as distributed between the Supreme Judicial Council, the Inspectorate at the Supreme Judicial Council, the judicial system bodies and the National Institute of Justice.

### **Article 365**

(Amended, SG No. 33/2009)

The Supreme Judicial Council shall organise the implementation of the Judiciary budget through the Inspectorate at the Supreme Judicial Council, the Supreme Court of Cassation, the

Supreme Administrative Court, the courts, the Prosecutor General and the National Institute of Justice.

#### **Article 366**

(1) The Supreme Judicial Council shall draw up an annual report on the cash implementation of the Judiciary budget based on a full budget classification to be mandatorily included as an integral part of the summary report on the implementation of the state budget.

(2) The report under para 1 shall be included by the Ministry of Finance when drawing up the report on the implementation of the state budget.

(3) Every year, together with the report on the implementation of the state budget, the Council of Ministers shall table to the National Assembly the report on the implementation of the Judiciary budget adopted by the SJC, accompanied by a detailed rationale.

#### **Article 367**

The Supreme Judicial Council shall organise the development and ensure the functioning of a financial management and control system inside judicial system bodies, as well as the internal audit of the assimilation and management of budgetary resources.

## **Chapter twenty**

# **INTERACTION BETWEEN THE JUDICIARY AND THE EXECUTIVE**

### **Section I**

### **General provisions**

#### **Article 368**

The Judiciary and the Executive shall interact through the Minister of Justice and the administration of the Ministry of Justice.

#### **Article 369**

The Minister of Justice shall discharge his powers stipulated in the Constitution through the activities herein provided for.

#### **Article 370**

(1) Interaction of judicial system bodies and the Supreme Judicial Council with the bodies of the Executive shall be carried out along the following lines:

1. Court business,
2. Developing draft primary and secondary legal instruments of concern to the judicial system and the activities falling in the competence of the Minister of Justice,
3. Professional qualifications,
4. Information technologies,
5. (Amended, SG No. 109/2008) Combating crime;
6. Managing the property of the Judiciary,
7. Business associated with the preparation of the draft Judiciary budget,
8. Security and protection,
9. Business associated with the state and private enforcement agents, the notaries public, the recordation judges and the receivers in bankruptcy,
10. International cooperation.

(2) The functions and work organisation of the respective structural units of the Ministry of Justice shall be specified herein and in the Organic Regulations of the Ministry of Justice.

#### **Article 371**

(Repealed, SG No. 109/2008)

## **Section II**

### **Inspectorate with the Minister of Justice**

#### **Article 372**

(Amended, SG No. 1/2011, effective as of 4.01.2011) (1) There shall be an Inspectorate with the Minister of Justice that shall:

1. inspect the work of the state and private enforcement agents, of the recordation judges, including the work on instituting, proceeding and concluding execution cases, the recordation cases and shall summarise and analyse the practice of these cases;

2. keep and summarise the information on instituting, proceeding and concluding execution cases of the state and private enforcement agents and the recordation cases;

3. inspect the work of the officials on registration under the Commercial Register Act;

4. inspect and analyse the work of the notary judges together with inspectors - notary judges;

5. assist the Minister of Justice in exercising his/her powers on drawing up proposals for the adoption of interpretative resolutions or interpretative rulings as well as on drawing up opinions on already made proposals for the adoption of interpretative resolutions or interpretative rulings;

6. exercise current control over the proper organisation and conduct of internships for obtaining legal competency and take part in the examination for obtaining legal competency;

7. perform the organisational and technical work required to ensure the interaction between the Minister of Justice and the Supreme Judicial Council;

8. organise and coordinate the monitoring on the implementation of normative acts related to the judiciary and draw up periodic reports to the Minister of Justice summarising the results of the monitoring;

9. carry out other inspections assigned by the Minister of Justice.

(2) Inspections under para 1, items 1-4 shall be carried out on the basis of a plan endorsed by the Minister of Justice.

### **Article 373**

Officials shall be held to provide assistance to inspectors of the Inspectorate with the Minister of Justice in the implementation of their functions and to allow them access of the materials, subject to the requirements of the Classified Information Protection Act and the Personal Data Protection Act.

### **Article 374**

(Amended, SG No. 1/2011, effective as of 4.01.2011)

(1) The Inspectorate with the Minister of Justice shall consist of inspectors headed by an Inspector General.

(2) The Inspector General and the inspectors shall be appointed by the Minister of Justice following a competition pursuant to the Civil Servants Act.

(3) An individual with at least 12 years of legal service record may be appointed as inspector general and with at least 8 years of legal service record - as inspector.

(4) The time served as inspector general and at the Inspectorate with the Minister of Justice shall count as length of service under Article 164, para 1-7.

### **Article 375**

(Amended, SG No. 1/2011, effective as of 4.01.2011)

(1) Upon relief from the office of Inspector General or of inspector, the person shall be reinstated to the position held prior to such appointment, provided he has worked in judicial system bodies.

(2) To the purpose of reinstatement under para 1, the person shall file, within 14 days of his relief from office, an application with the Supreme Judicial Council.

(3) Time in service as Inspector General or inspector at the Inspectorate with the Minister of Justice shall count as service record under Article 164, paras 1 - 5.

#### **Article 376**

The Labour Code shall apply, with reference to any matters that have not been provided for in this section, to the inspectors of the Inspectorate with the Minister of Justice.

### **Section III**

## **Court statistics. Information systems**

#### **Article 377**

(Amended, SG No. 33/2009)

The Supreme Judicial Council shall provide the National Institute of Statistics with statistical data for publication, in accordance with the Statistics Act.

#### **Article 378**

(Amended, SG No. 33/2009)

(1) The integrated information system for combating crime (IISCC) shall be a combination of automated information systems and shall consist of a central component (core) connected to the systems of the Judiciary and of the Executive, processing information about events and items and, taken as a whole, shall provide integrated information support of the activities pursued to combat crime.

(2) Judicial system bodies, the Ministry of Interior, the National Agency for State Security, the Ministry of Defence, the Ministry of Justice and the Ministry of Finance, subject to the requirements of para 3, shall set up, maintain, use and develop internal information systems that shall be part of the IISCC or exchange information therewith.

(3) The bodies referred to in para 2 shall provide funding out of their budgets for the setting-up, maintenance, use and development of the intra-agency components of the IISCC.

(4) The procedure and method for the setting-up, maintenance, use and development of the



IISCC, as well as of interaction between the bodies and institutions referred to in para 2 to ensure the system's functioning shall be stipulated in an Ordinance issued by the Council of Ministers at the proposal of the Minister of Justice.

(5) The bodies and institutions whose automated information systems connect to the IISCC shall be obligated to provide the information needed for this system's functioning.

#### **Article 379**

(1) (Amended, SG o. 33/2009) The Prosecution Office shall set up, maintain, use and develop the IISCC core.

(2) (Amended, SG No. 33/2009) The Prosecution Office shall set up and develop communication components that will connect the IISCC core to the internal systems. The communication components shall be operated and maintained by the agencies whose automated information systems are connected to the IISCC core.

(3) The institutions whose automated information systems are connected to the IISCC core shall be held to provide the information required for the operation of the IISCC.

#### **Article 380**

(Repealed, SG No. 33/2009)

#### **Article 381**

(Repealed, SG No. 33/2009)

#### **Article 382**

(Repealed, SG No. 33/2009)

#### **Article 383**

(Amended, SG No. 33/2009)

(1) Methodological guidance with regard to the IISCC shall be provided by an interagency board.

(2) The composition and business of the interagency board shall be stipulated by the Ordinance referred to in Article 378, para 4.

#### **Article 384**

(1) The following shall have access of the data contained in the IISCC:

1. Officials who exercise powers in the criminal process and in the enforcement of

sentences by virtue of a law,

2. Individuals having the right of access through their belonging to judicial system bodies and to the ministries under Article 378, para 2,

3. Individuals designated in a resolution of the interagency board.

(2) Access of data contained in the IISCC shall be provided to individuals outside those under para 1 with written consent of the individual whose data are entered on the national IISCC database.

(3) A public access contour may be opened to the IISCC core to contain data specified by law.

#### **Article 385**

(Amended, SG No. 33/2009)

(1) Information support for the activities of the Judiciary shall be provided by the Supreme Judicial Council, assisted by the Ministry of Finance, the Ministry of Regional Development and Public Works - by giving judicial system bodies access to the Population National Database, the National Institute of Statistics and the Bulgarian Standardisation Institute, including by providing electronic personal data or by remote database access, subject to the requirements of the Personal Data Protection Act.

(2) The procedure and method for the rendering of assistance by the Ministry of Regional Development and Public Works by providing access to the Population National Database shall be stipulated in an Ordinance by the Minister of Justice and the Minister of Regional Development and Public Works.

#### **Article 386**

(Repealed, SG No. 33/2009)

## **Section IV**

### **Judiciary property management**

#### **Article 387**

(Amended, SG No. 33/2009)

The Minister of Justice shall organise the management of the Judiciary's property.

#### **Article 388**

(1) The Minister of Justice shall distribute the use of real estates attributed to the Judiciary

among its separate bodies and may entrust with their exploitation the administrative heads of these bodies.

(2) (Supplemented, SG No. 33/2009) Funds for construction and complete refurbishment of real estates, as well as funds for property entailed obligations, i.e. taxes, fees, rent, insurances and revaluations shall be covered from the budget of the Ministry of Justice.

### **Article 389**

(Supplemented, SG No. 33/2009)

The intended use of real estates attributed for the needs of the Judiciary may not change without the consent of the judicial system bodies.

### **Article 390**

(Amended, SG No. 33/2009)

(1) Funds for the acquisition, exploitation and management of movable property shall be provided from the budget of the judicial system bodies.

(2) The Supreme Judicial Council may transfer the management of movable property from any judicial system body to another, subject to the consent of such bodies' administrative heads;

## **Section V**

### **Security and protection**

### **Article 391**

(1) (Amended, SG No. 33/2009) A Security Directorate General exists under the Minister of Justice and provides for the security of the judicial system bodies.

(2) (Amended, SG No. 33/2009) The Security Directorate General is a legal entity seated in Sofia and a second-level spending unit under the Minister of Justice.

(3) (New, SG No. 33/2009) The Security Directorate General shall:

1. Organise and provide for the security of court buildings,
2. Ensure order inside court buildings and the security of judicial system bodies in the discharge of their powers,

3. (Amended, SG No. 1/2011, effective as of 4.01.2011) Organise and provide for the protection of judges, prosecutors, investigating magistrates - under terms and procedures specified in a Regulation of the Minister of Justice, in coordination with the Supreme Judicial Council, and of protected individuals under terms and procedures specified in the Protection of

Persons Threatened in Relation to Criminal Proceedings Act,

4. (Amended, SG No. 1/2011, effective as of 4.01.2011) Render assistance to judicial system bodies in summoning persons in the cases when the implementation of this obligation is obstructed,

5. Bring individuals to a judicial system body by coercion when this has been ruled by a judicial system body,

6. Convoy accused parties and defendants in respect whereof a measure of remand in custody has been requested or ruled, or individuals serving a sentence in prison, to the judicial system bodies,

7. Execute the personal order of a prosecutor for the enforcement of effective sentences to imprisonment, and, if necessary, seek assistance from the bodies of the Ministry of Interior,

8. Inspect and control the observation of rules and standards of security and safety in the design, construction and exploitation of Judiciary buildings,

9. Coordinate projects and give opinions on the putting in operation of Judiciary buildings with reference to security and safety,

10. For the needs of its business, set up and maintain information bases where information obtained during or on the occasion of the discharge of its functions is collected, processed, stored and used.

11. Obtain information related to the discharge of its functions from the Ministry of Interior.

(4) (New, SG No. 1/4.01.2011, effective as of 4.01.2011) When carrying out the activities under para 3, items 1-7 the Security Directorate General shall interact as necessary with the administrative heads of the judiciary bodies.

(5) (Renumbered from Paragraph 3, SG No. 33/2009, renumbered from Paragraph 4, SG No. 1/2011, effective as of 4.01.2011) The rules and standards of safety and security in the design, construction, reconstruction, upgrade and exploitation of Judiciary sites shall be specified in an Ordinance of the Minister of Justice coordinated with the Minister of Regional Development and Public Works.

(6) (Renumbered from Paragraph 4, amended, SG No. 33/2009, renumbered from Paragraph 4, SG No. 1/2011, effective as of 4.01.2011) The type of information under para 3, item 11 and the procedure for its provision shall be specified in an Ordinance, issued together by the Minister of Justice and the Minister of Interior.

(7) (New, SG No. 33/2009, renumbered from Paragraph 4, SG No. 1/2011, effective as of 4.01.2011) The structure and operation of the Security Directorate General shall be regulated by Regulations issued by the Minister of Justice.

### **Article 392**

In the discharge of their powers, the officers at the Security Directorate General shall be held to respect the dignity of citizens, their rights and legal interests.

### **Article 393**

(Amended, SG No. 33/2009)

(1) In the discharge of its powers under Article 391, para 3 the staff of the Security Directorate General shall have the rights and duties under Article 55, paras 1, 2, 4 and 5, Articles 56, 57, 61, Articles 63 - 68 and Article 69 - in the cases under Article 61, para 1, items 1, 4 and 5, Articles 72, 73, Article 74, paras 1, 2 and 5 and Article 89 of the Ministry of Interior Act, and under Decree No. 904 on combating minor hooliganism.

(2) The provisions of Part Three, Chapters Fifteen to Twenty of the Ministry of Interior Act shall apply to the staff of the Security Directorate General.

### **Article 394**

Citizens and officials shall be held to provide assistance to the officers of the Security Directorate General in the discharge of their duties, providing them, among others, with information and documents, subject to keeping state, official and commercial, as well as personal information secrecy.

## **Chapter twenty-one EXPERT WITNESSES**

### **Article 395**

(1) An expert witness shall carry out expert assessments.

(2) All state bodies, legal entities and citizens having materials required for an expert assessment shall be held to provide access thereof to the expert witness concerned in accordance with the level of access to classified information of the expert witness, as well as to provide the assistance required for the attainment of the expert assessment objectives.

### **Article 396**

(1) (Amended, SG No. 1/2011, effective as of 4.01.2011) An expert witness shall be appointed by the body which has assigned an expert assessment from the respective list of specialists approved to serve as expert witnesses.

(2) Where needed, a specialist who is not on the respective list, may also be appointed as expert witness.

(3) In the event of complex or large-scale research, the body concerned may appoint more than one expert witness.

(4) In the discharge of its functions, the expert witness shall be identified by a certificate issued by the body which has assigned the expert assessment.

### **Article 397**

No expert witness who is interested in the outcome of the proceedings or has relations with any of the parties to a case that give rise to justified doubts in his impartiality may be appointed to carry out an expert assessment.

### **Article 398**

(1) (Amended, SG No. 1/2011, effective as of 4.01.2011) Lists of specialists approved to become expert witnesses shall be drawn up in the judicial area of each regional and administrative court as well as for the specialised criminal court.

(2) The Supreme Court of Cassation, the Supreme Administrative Court, the Supreme Prosecution Office of Cassation, the Supreme Administrative Prosecution Office and the National Investigation Service shall approve separate lists for the needs of their business, if so required.

(3) Where the needs of a particular judicial system body so require, it may appoint an expert witness on a list in another judicial area.

(4) The para 1 and 2 lists shall be public.

### **Article 399**

(1) Ministries, agencies, establishments, municipalities, professional and other organisations and scientific institutes shall make proposals for the inclusion of specialists on the lists of expert witnesses.

(2) Specialists themselves can also make proposals for the inclusion on the lists of expert witnesses.

(3) (Amended, SG No. 1/2011, effective as of 4.01.2011) Proposals for inclusion on the lists under Article 398, para 1 shall be made to the chairperson of the respective court.

(4) Proposals for inclusion on the lists under Article 398, para 2 shall be made to each administrative head of the judicial system body concerned.

### **Article 400**

(1) The proposals shall set out in writing the full name of the specialist, his home address, contact phone and data about his education, work place, position held, length of service record, his record as expert witness and his additional qualifications.

(2) Circumstances under para 1 shall be verified on the basis of appropriate documentation attached to the proposal.

#### **Article 401**

(1) (Amended, SG No. 33/2009, amended, SG No. 1/2011, effective as of 4.01.2011) The lists under Article 398, para 1 shall be endorsed by a commission composed of the chairperson of the appellate court or a judge thereby designated, the chairperson of the appellate specialised criminal court or a judge thereby designated, the appellate prosecutor or a prosecutor thereby designated, the head of the appellate specialised prosecution office or a prosecutor thereby designated, the chairperson of the regional court, the chairperson of the specialised criminal court, the regional prosecutor, the head of the specialised prosecution office and the chairperson of the administrative court.

(2) (Amended, SG No. 33/2009) Lists under Article 398, para 2 shall be endorsed by a commission composed of the Chairperson of the Supreme Court of Cassation, the Chairperson of the Supreme Administrative Court and the Prosecutor General.

(3) The endorsed lists shall be sent to the Minister of Justice for publication in the State Gazette and on the Internet.

#### **Article 402**

(1) Proposals for modifications and additions to the endorsed lists of expert witnesses shall be made until the end of September of the respective calendar year.

(2) By the end of October commissions under Article 401, paras 1 and 2 shall update the lists,

(3) By 15 November the lists shall be sent to the Minister of Justice for publication in the State Gazette and on the Internet.

(4) The lists may also be modified in the course of the current year.

#### **Article 403**

(1) The Supreme Judicial Council shall adopt an Ordinance concerning:

1. The procedure and terms for making proposals for inclusion and for modification of the lists of specialists approved to serve as expert witnesses,

2. The conditions that the specialists approved as expert witnesses must fulfil,

3. The terms and procedure for calculating the remuneration of expert witnesses.

4. (New, SG No. 59/2010, effective 1.01.2011, repealed, SG No. 45/2011, effective

14.06.2011).

(2) This Ordinance shall be published in the State Gazette.

**Article 403a.** (New, SG No. 45/2011, effective 14.06.2011) The terms and procedure for the conduct of forensic medical, forensic psychiatric and forensic psychological assessments, including the payment of the relevant costs to medical treatment facilities, shall be determined by an ordinance issued by the Minister of Justice, the Minister of Foreign Affairs and the Minister of Health, in coordination with the Supreme Judicial Council.

## **Chapter twenty-two**

### **PENAL ADMINISTRATIVE PROVISIONS**

#### **Article 404**

(1) The head of a state or municipal administration, of an organisation or an employer who does not allow official leave from work to an individual summonsed to appear as a court assessor or who obstructs his appearance at court proceedings shall be sanctioned by a fine of BGN 300 to 600.

(2) The fine shall be imposed by the chairperson of the court and may be repealed in pursuance of the Civil Procedure Code.

#### **Article 405**

(1) Anyone failing to execute the personal order of a judge, prosecutor, investigating magistrate, state enforcement agent or recordation judge issued in accordance with the procedure established hereunder, shall be sanctioned by a fine of BGN 50 to 2,000, unless subject to a more severe sanction.

(2) A fine shall be imposed by personal order or decree after the individual has been given the opportunity to provide explanations in relation to the offence.

(3) The judge, prosecutor, investigating magistrate, state enforcement agent or recordation judge who has imposed the sanction may repeal or reduce the fine following appeal by the sanctioned individual filed within 7 days of notification.

(4) (Amended, SG No. 33/2009) The decision or decree with regard to the appeal shall be subject to appeal in accordance with the procedure provided for in the Administrative Violations and Sanctions Act.

#### **Article 406**

Anyone failing to execute a personal order of an officer with the Security Directorate General of the Ministry of Justice issued in implementation of the latter's functions shall be sanctioned by a fine of BGN 50 to 2,000.



### **Article 407**

The heads of state bodies and of legal entities, as well as the citizens, who have guiltily failed to fulfil their obligations under Article 394 shall be sanctioned by a fine of BGN 200 to 3,000.

### **Article 408**

(1) The act establishing the presence of a violation under Article 406 or 407 shall be drawn up by an officer of the Security Directorate General.

(2) The penal decree shall be issued by the Minister of Justice or an official thereby authorised.

(3) The establishment of the presence of violations, the issuance, appeal from and enforcement of penal decrees shall occur in pursuance of the procedure under the Administrative Violations and Sanctions Act.

### **Article 409**

Revenues from fines imposed by penal decrees hereunder shall enter the Judiciary budget.

## **TRANSITIONAL AND FINAL PROVISIONS**

§ 1. The Judiciary System Act (published, SG, No. 59/1994, No. 78/1994 - Judgement No. 8/the Constitutional court/1994, No. 87/1994 - Judgement No. 9/1994 from the Constitutional court, No. 93/1995 - Judgement No. 17/1995 from the Constitutional court; amended, No. 64/1996, No. 96/1996 - Judgement No. 19/1996 from the Constitutional court; amended, No. 104 and 110/1996, No. 58, 122 and 124/1997, No. 11 and 133/1998, No. 6/1999 - Judgement No. 1/1999 from the Constitutional court; amended, No. 34, 38 and 84/2000, No. 25/2001, No. 74/2002, No. 110/2002 - Judgement No. 11/2002 from the Constitutional court, No. 118/2002 - Judgement No. 13/2002 from the Constitutional court; amended, No. 61 and 112/2003, No. 29, 36 and 70/2004, No. 93/2004 - Judgement No. 4/2004 from the Constitutional court, No. 37/2005 - Judgement No. 4/2005 from the Constitutional court; amended, No. 43 and 86/2005, No. 17/2006, No. 23/2006 - Judgement No. 1/2006 from the Constitutional court, No. 30 and 39/2006) shall be repealed.

§ 2. (1) The assemblies under Article 21 and the assembly under Article 23, para 3 shall be held no later than 5 September 2007.

(2) The assemblies under Article 21 or the assembly under Article 23, para 3, which have not taken place within the term under para 1, shall be convoked by the Minister of Justice and shall be held no later than 15 September 2007.

§ 3. (1) The assemblies under Article 23, paras 1 and 2 shall be held no later than 21

September 2007.

(2) The assemblies that have not taken place within the term under para 1, shall be convoked by the Minister of Justice and shall be held no later than 28 September 2007.

§ 4. The National Assembly shall elect the Supreme Judicial Council members from its quota no later than 28 September 2007.

§ 5. (1) The newly elected Supreme Judicial Council shall be deemed constituted once members who form two-thirds of its composition, including those ex officio, have been elected.

(2) The business of the hitherto Supreme Judicial Council shall terminate upon the constitution of the newly elected Supreme Judicial Council in pursuance of the procedure hereunder.

§ 6. Pending proceedings before the Supreme Administrative Court on appeals from resolutions of the Supreme Judicial Council shall be completed in accordance with the hitherto procedure.

§ 7. (1) Nominations for Inspector General and for inspectors of the Inspectorate at the Supreme Judicial Council shall be made until 15 October 2007.

(2) The Inspector General and inspectors shall enter office within one month of their election.

(3) The Inspector General and the inspectors shall vacate the positions held by them and cease any business under Article 18 prior to entering office, notifying thereof the Speaker of the National Assembly.

§ 8. Any judges in regional courts, prosecutors in regional prosecution offices, judges in administrative courts, judges in appellate courts and prosecutors in appellate prosecution offices, falling short of the requirements under Article 164, paras 2, 3 and 4, shall keep the positions they hold.

§ 9. Within three months of the entry into force hereof, the Council of Ministers shall provide work premises for the business of the Inspectorate at the Supreme Judicial Council.

§ 10. Chairpersons of division at the Supreme Court of Cassation and at the Supreme Administrative Court, heads of department at the Supreme Prosecution Office of Cassation and at the Supreme Administrative Prosecution Office, as well as heads of department at the National Investigation Service, shall keep the amount of remuneration they have received until the entry into force hereof.

§ 11. (1) (Amended, SG No. 1/2011, effective as of 4.01.2011) Years in service as arbitrator under the repealed State Arbitration Act shall also count as service record in the capacity of judge under Article 164, paras 1 - 7.

(2) (Amended, SG No. 1/2011, effective as of 4.01.2011) Years in service of any judges found in international courts set up on the basis of an international treaty to which the Republic of Bulgaria is a party or within the framework of an international organisation of which the Republic of Bulgaria is a member that have been designated by the Republic of Bulgaria shall also count as service record in the capacity of judge under Article 164, paras 1 - 7.

**§ 12.** Competitions for judges, prosecutors, investigating magistrates, state enforcement agents and recordation judges scheduled before the entry into force hereof shall take place in accordance with the hitherto procedure.

**§ 13.** The additional remuneration for extended work of the judges, prosecutors and investigating magistrates which before the entry into force hereof has exceeded 40 percent, shall be kept at the amount set and may not be increased.

**§ 14.** (Amended, SG No. 23/2011, effective 22.03.2011) The provisions of the Defence and Armed Forces of the Republic of Bulgaria Act shall apply to military judges, military prosecutors and military investigating magistrates, the years in service in the system of the Ministry of Interior counting as military service.

**§ 15.** Pending disciplinary proceedings as of the entry into force hereof shall be examined in accordance with the hitherto procedure and shall be completed before 31 December 2007. The expiry of this term shall not constitute grounds for liability ceasing to exist.

**§ 16.** The three-year period for entry in office shall apply to any found junior judges and junior prosecutors.

**§ 17.** (1) The term under Article 374, para 2 shall start running for the court inspectors found from the date of their last appointment.

(2) Until election of an Inspector General and of inspectors of the Inspectorate at the Supreme Judicial Council, the Inspectorate with the Minister of Justice shall continue exercising its powers under Article 35b, para 1, items 1 and 2 of the repealed Judiciary System Act.

**§ 18.** Service record as judicial candidate or trainee lawyer shall also count as labour service record, provided that service is done after the higher education state examinations in the specialty area of law.

**§ 19.** Chapter sixteen of the Administrative Procedure Code (SG, No. 30 from 2006), with Article 258 - 266, shall be repealed.

**§ 20.** In the Criminal Code (published, SG, No. 26 from 1968; corrected, No. 29 from 1968; amended, No. 92 from 1969, No. 26 and 27 from 1973, No. 89 from 1974, No. 95 from 1975, No. 3 from 1977, No. 54 from 1978, No. 89 from 1979, No. 28 from 1982; corrected, No. 31 from 1982; amended, No. 44 from 1984, No. 41 and 79 from 1985; corrected, No. 80 from 1985; amended, No. 89 from 1986; corrected, No. 90 from 1986; amended, No. 37, 91 and 99 from 1989, No. 10, 31 and 81 from 1990, No. 1 and 86 from 1991; corrected, No. 90 from 1991; amended, No. 105 from 1991, No. 54 from 1992, No. 10 from 1993, No. 50 from 1995, No. 97

from 1995 - Judgement No. 19 of the Constitutional court from 1995; amended, No. 102 from 1995, No. 107 from 1996, No. 62 and 85 from 1997, No. 120 from 1997 - Judgement No. 19 of the Constitutional court from 1997; amended, No. 83, 85, 132, 133 and 153 from 1998, No. 7, 51 and 81 from 1999, No. 21 and 51 from 2000, No. 98 from 2000 - Judgement No. 14 of the Constitutional court from 2000; amended, No. 41 and 101 from 2001, No. 45 and 92 from 2002, No. 26 and 103 from 2004, No. 24, 43, 76, 86 and 88 from 2005, No. 59, 75 and 102 from 2006, No. 38 and 57 from 2007) the words "assistant enforcement agent" shall everywhere be replaced by "assistant private enforcement agent".

**§ 21.** In the Social Security Code (published, SG, No. 110 from 1999, No. 55 from 2000 - Judgement No. 5 of the Constitutional court of the Republic of Bulgaria from 2000; amended, No. 64 from 2000, No. 1, 35 and 41 from 2001, No. 1, 10, 45, 74, 112, 119 and 120 from 2002, No. 8, 42, 67, 95, 112 and 114 from 2003, No. 12, 38, 52, 53, 69, 70, 112 and 115 from 2004, No. 38, 39, 76, 102, 103, 104 and 105 from 2005, No. 17, 30, 34, 56, 57, 59, 68, 82, 95, 102 and 105 from 2006, No. 41 and 52 from 2007) the following amendments shall be made:

1. In Article 54b, para 3 the words "Article 131, para 1, items 2, 3 and 6 and Article 152, para 1, items 2, 3 and 4" shall be replaced by "Article 165, para 1, items 2, 3 and 5 and Article 271, items 2, 3 and 5".

2. In Article 54f, para 1 the words "Article 139e" shall be replaced by "Article 226".

3. In Article 69, para 2 the words "Article 36e" shall be replaced by "Article 391".

4. In Article 230, para 3, item 3, littera "b" the words "bailiffs" shall be replaced by "state enforcement agents".

5. In Article 262, para 1, item 3 the words "bailiffs" shall be replaced by "state enforcement agents".

6. In Article 282, para 1, item 3, littera "b" the words "bailiffs" shall be replaced by "state enforcement agents".

7. In Article 287, para 2 the words "Article 131, para 1, items 2, 3 and 6 and Article 152, para 1, items 2, 3 and 4" shall be replaced by "Article 165, para 1, items 2, 3 and 5 and Article 271, items 2, 3 and 5".

**§ 22.** In the State Financial Inspection Act (published, SG, No. 33 from 2006; amended, No. 59 from 2006) in Article 5, item 5 the words "Article 119" shall be replaced by "Article 145".

**§ 23.** In the Civil Servant Act (published, SG, No. 67 from 1999; amended, No. 1 from 2000, No. 25, 99 and 110 from 2001, No. 45 from 2002, No. 95 from 2003, No. 70 from 2004, No. 19 from 2005, No. 24, 30 and 102 from 2006, No. 59 from 2007) in § 2, para 3 from the transitional and final provisions the words "Article 127, paras 1 - 4" shall be replaced by "Article 164, para 1 - 5".

**§ 24.** In the Consumer Protection Act (published, SG, No. 99 from 2005; amended, No.

30, 51, 53, 59, 105 and 108 from 2006, No. 31, 41 and 59 from 2007) in Article 226, para 2 the words "Article 201" shall be replaced by "Article 405".

**§ 25.** In the Ministry of Interior Act (published, SG, No. 17 from 2006; amended, No. 30, 102 and 105 from 2006, No. 11, 31, 41, 46 and 57 from 2007) the following amendments and supplements shall be made:

1. In Article 212, para 1, item 10 the words "Article 163" shall be replaced by "Article 294".

2. In Article 219, para 2 the word "district" shall be deleted, and the words "Article 118a, para 3" shall be replaced by "Article 144, para 3".

3. In Article 220 the word "district" shall be deleted and in the end "under Article 144, para 3 from the Judiciary System Act" shall be added.

**§ 26.** In the Notaries Public and Notarial Public Business Act (published, SG, No. 104 from 1996; amended, No. 117, 118 and 123 from 1997, No. 24 from 1998, No. 69 from 1999, No. 18 from 2003, No. 29 and 36 from 2004, No. 19 and 43 from 2005, No. 30, 39 and 41 from 2006, No. 59 from 2007) the following amendments and supplements shall be made:

1. In Article 8, para 2 the words "assistant enforcement agents" shall be replaced by "assistant private enforcement agent".

2. In Article 80b, para 1 a second sentence shall be inserted: "The Minister of Justice shall assign joint inspections to the inspectors of the Inspectorate with the Minister of Justice under the Judiciary System Act and to the inspector notaries public under Article 80c, para 4."

3. In Article 80c, para 1 shall be repealed.

**§ 27.** In the Income of Natural Persons Taxation Act (published, SG, No. 95 from 2006; amended, No. 52 from 2007) the following amendments and supplements shall be made:

1. In Article 24, para 2, item 8 the words "Article 139d, Article 139f, para 1, items 1 and 2, Article 157a, para 3 and Article 188o" shall be replaced by "Article 225, Article 277, para 3 and Article 354".

2. In the additional provisions, in § 1, item 26, littera "c", after the words "the Supreme Judicial Council", "the Inspector General and the inspectors of the Inspectorate at the Supreme Judicial Council " shall be added.

**§ 28.** In the National Audit Office Act (published, SG, No. 109 from 2001; amended, No. 45 from 2002, No. 31 from 2003, No. 38 from 2004, No. 34 and 105 from 2005, No. 24, 27, 33 and 37 from 2006) in Article 27, para 4 the words "Article 127, para 1 - 4" shall be replaced by "Article 164, paras 1 - 5".

**§ 29.** In the Private Enforcement Agents Act (published, SG, No. 43 from 2005; amended, No. 39 from 2006, No. 31 and 59 from 2007) the following amendments and supplements shall

be made:

1. In Article 75, para 1 item 1 shall be amended as follows:

"1. Inspectors of the Inspectorate with the Minister of Justice under the Judiciary System Act;"

2. The words "assistant enforcement agent", "assistant enforcement agents", "the assistant enforcement agents", "the assistant enforcement agent" and "an assistant enforcement agent" shall everywhere be correspondingly replaced by "assistant private enforcement agent", "assistant private enforcement agents", "the assistant private enforcement agents", "the assistant private enforcement agent " and "an assistant private enforcement agent".

**§ 30.** (1) Secondary legal instruments issued for the application and on the basis of the repealed Judiciary System Act shall apply until the issuance of the corresponding new secondary legal instruments, insofar as they do not stand in contradiction herewith.

(2) Secondary legal instruments for the application hereof shall be adopted or issued until 31 December 2007.

(3) The Inspectorate at the Supreme Judicial Council shall adopt the Regulations under Article 55, para 4 within one month of the election of the Inspectorate General and of inspectors.

(4) Within up to three months of the entry into force hereof, the Council of Ministers shall adopt the Ordinance under Article 378, para 2.

(5) The Minister of Justice shall issue:

1. The Ordinance under Article 385, para 5 within up to three months of the entry into force hereof,

2. The Ordinance under Article 386, para 1 within up to 6 months of the entry into force hereof.

This Act was adopted by the 40th National Assembly on 24 July 2007 and the official seal thereof is affixed hereunder.

Act to Amend and Supplement the Judiciary System Act

(SG No. 33/2009)

.....

#### SUPPLEMENTARY PROVISION

§ 110. All occurrences herein of the phrases "junior judge, junior prosecutor and junior investigating magistrate" and "junior judges, junior prosecutors and junior investigating

magistrates" shall be replaced respectively by "junior judge and junior prosecutor" and "junior judges and junior prosecutors".

#### Transitional and Final Provisions

§ 111. The Prosecution Office of the Republic of Bulgaria shall be the legal successor of the National Investigation Service and the regional investigation services as regards the assets, liabilities, archive and other rights and obligations thereof as at the date of this Act's entry into force.

§ 112. (1) The Director of the National Investigation Service shall continue to discharge his duties as an administrative head until the end of the term of office for which he has been elected.

(2) The directors of regional investigation services shall be re-appointed without competition as heads of regional investigation departments at regional prosecution offices and shall continue to discharge their duties as administrative heads until the end of the term of office for which they have been elected

(3) The Supreme Judicial Council shall reappoint the investigating magistrates from regional investigation services with regional investigation departments at regional prosecution offices without competition.

(4) The legal employment matters concerning officers from regional investigation services shall be settled subject to the terms and procedure provided for in Article 123 of the Labour Code.

§ 113. The Supreme Judicial Council shall reappoint without competition junior investigating magistrates from regional investigation services who, as at the date of this Act's entry into force, have not completed three years in service at the position of junior prosecutors at the relevant district prosecution offices.

§ 114. Within one month after this Act's entry into force the vacated junior prosecutor positions at regional prosecution offices shall be transformed into prosecutor positions.

§ 115. (1) (Amended, SG No. 1/2011, effective as of 4.01.2011) Service record as an investigating magistrate at a regional investigation service shall be counted as service record under Article 164, para 8.

(2) (Amended, SG No. 1/2011, effective as of 4.01.2011) Service record as a junior investigating magistrate at a regional investigation service shall be counted as service record under Article 164, para 8 and Article 209, para 2.

§ 116. (Amended, SG No. 1/2011, effective as of 4.01.2011) Service record of individuals with higher legal education as investigating police officers in the system of the Ministry of Interior or investigating police officers at the Ministry of Defence gained until the entry into force of the Act to Amend and Supplement the Ministry of Interior Act (SG, No. 69/2008) shall be

counted as service record under Article 164, para 8.

§ 117. Labour remuneration of experts with the Inspectorate at the Supreme Judicial Council determined prior to this Act's entry into force shall be aligned with Article 55, para 4.

§ 118. (1) Disciplinary proceedings pending as at this Act's entry into force shall be treated in accordance with the hitherto applied procedure.

(2) Appraisals not completed until this Act's entry into force and competitions held through appraisals shall be finalised in accordance with the procedure applied hitherto.

§ 119. Competitions for administrative heads of investigation bodies scheduled before this Act's entry into force which have not been finalised shall be terminated.

§ 120. Within three months after this Act's entry into force the Supreme Judicial Council shall approve the Code of Ethics for judges, prosecutors and investigating magistrates and the Code of Ethics for clerks of court and shall adopt the Ordinance referred to in Article 209a.

§ 121. Within six months after this Act's entry into force the Minister of Justice shall issue the Regulations under Article 391, para 6.

.....

§ 123. (1) Paragraph 56 shall enter into force as of the date when the Ordinance referred to in Article 209a enters into force.

(2) The provisions of § 72 and 73 shall enter into force as of 1 January 2010.

TRANSITIONAL AND FINAL PROVISIONS to the Act to Amend and Supplement the Judiciary System Act

(SG No. 103/2009, effective 29.12.2009)

§ 12. Any instituted disciplinary proceedings pertaining to the early relief from office of an elected member of the Supreme Judicial Council shall be completed as per the procedure laid down in this Act.

§ 13. This Act shall enter into force on the date of its promulgation in the State Gazette.

TRANSITIONAL AND FINAL PROVISIONS to the Act to Amend and Supplement the Medical-Treatment Facilities Act

(SG, No. 59/2010, effective 31.07.2010)

.....

§ 60. In the Judiciary System Act (Promulgated, SG, No. 64/2007; amended, No. 69 and



109/2008 and No. 25, 33, 42, 102 and 103/2009) in Article 403, Paragraph 1, shall be inserted new Item 4:

.....

§ 77. The Act shall become effective from the day of its promulgation in State Gazette, except:

1. Paragraphs 9 (according Article 19, paragraph 4), 53, 60 and 66 (according article 98, paragraphs 5 and 6), which shall become effective from 1 January 2011 year;

2. Paragraph 75, which shall become effective from 30 September 2011 year;

TRANSITIONAL AND FINAL PROVISIONS to the Act to Amend and Supplement the Judiciary System Act

(SG No. 1/2011, effective as of 4.01.2011, supplemented, SG No. 32/2011, effective 19.04.2011, amended with Judgment No.10 by the Constitutional Court of the Republic of Bulgaria, SG No. 93/2011)

§ 119. (1) Within 15 days of the entry into force of this act the Supreme Judicial Council shall set the number of judges, prosecutors and investigating magistrates as well as the deputy administrative heads of the specialised courts and prosecution offices.

(2) The staff of the specialised courts and prosecution offices shall be ensured also through transformation of unoccupied staff positions for judges, prosecutors, investigating magistrates and clerks of court as of the date of entry into force of this act.

§ 120. (1) Within two months of the entry into force of this act the Supreme Judicial Council shall appoint heads of the specialised courts and prosecution offices.

(2) Within four months of the entry into force of this act the Supreme Judicial Council shall appoint the judges, prosecutors, investigating magistrates at the specialised courts and prosecution offices.

§ 121. (1) Within six months of the entry into force of this act the general assembly of the judges at the appellate specialised criminal court shall appoint the court assessors who shall participate in the hearings of the specialised criminal court.

(2) Until the court assessors under para 1 are appointed the court assessors appointed to participate in the court hearings of the Sofia City court shall take part in the hearings of the specialised criminal court.

§ 122. Within six months of the entry into force of this act the chairpersons of the specialised courts and the heads of the specialised prosecution offices shall appoint the judicial and prosecutorial assistants and the clerks at the court administration.

§ 123. Within one month of the entry into force of this act the Council of Ministers shall provide premises for the specialised courts and prosecution offices.

§ 124. The deputy administrative heads of the judiciary bodies shall continue to exercise their functions under the terms of Article 168.

§ 125. Within three months of the entry into force of this act the professional ethics commissions at the judiciary bodies shall be elected.

§ 126. (1) (Declared unconstitutional with Judgment No. 10 by the Constitutional Court of the Republic of Bulgaria, SG No. 93/2011)

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Within one month of the entry into force of this act the Supreme Judicial Council shall adopt the ordinance under § 21 and 67.

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(2) Within one month of the entry into force of this act the Supreme Judicial Council shall adopt the rules under § 12 and 86.

§ 127. (1) The competitions for judges, prosecutors and investigating magistrates as well as for administrative heads scheduled before the entry into force of this act shall be concluded under the existing procedure.

(2) The competitions for deputy administrative heads scheduled before the entry into force of this act shall be terminated.

§ 128. Within three months of the entry into force of this act the Supreme Judicial Council shall relieve from office the judges, prosecutors and investigating magistrates who have completed 65 years of age.

§ 128a. (New, SG No. 32/2011, effective 4.01.2011) Appraisal procedures initiated but not completed as at the date of this Act's entry into force shall be completed in accordance with the hitherto applicable procedure.

§ 129. (1) (Previous § 129, SG No. 32/2011, effective 4.01.2011) The four-year term for the periodic appraisal under § 69 in relation to Art. 196, item 2 shall start running as of the entry into force of this act.

(2) (New, SG No. 32/2011, effective 4.01.2011) Individuals who have not been appraised periodically or on any other occasion until this Act's entry into force shall be appraised extraordinarily prior to the expiry of the four-year period when participating in a promotion or transfer competition, upon the election of an administrative head or of a deputy thereof in judiciary bodies.

(3) (New, SG No. 32/2011, effective 4.01.2011) Appraisal procedures completed until this Act's entry into force under the hitherto Article 196, Items 1 - 5 shall be recognised as periodic appraisal.

§ 130. (Declared unconstitutional with Judgment No.10 by the Constitutional Court of the Republic of Bulgaria, SG No. 93/2011)

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Within three months of the entry into force of this act the Supreme Judicial Council shall adopt the ordinance under § 82.

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§ 131. The current Inspector General and the inspectors at the Inspectorate with the Minister of Justice shall continue to perform their functions and within one month after the entry into force of this act they shall be reappointed under a service contract to the positions "Head of Inspectorate" and "inspector" respectively under the Uniform Classification of positions in the administration, adopted with Council of Ministers decree No. 47 of 2004 (promulgated in the SG, No. 18/2004; amend. No. 83 2005 and No. 58/20010).

§ 132. Within three months of the entry into force of this act the Minister of Justice shall issue the regulation under § 112, item 1.

TRANSITIONAL AND FINAL PROVISIONS to the Act to Amend and Supplement  
the Judiciary System Act

(SG No. 32/2011, effective 19.04.2011)

§ 22. (1) Junior judge and junior prosecutor competitions and competitions for initial appointment with judiciary bodies scheduled prior to this Act's entry into force shall be completed in accordance with the hitherto applicable procedure.

(2) Junior judges and junior prosecutors appointed to such offices as at the date of this Act's entry into force shall continue performing those positions in accordance with the hitherto applicable procedure.

§ 23. Within 6 months after this Act's entry into force judges, prosecutors and investigating magistrates shall submit declarations under Article 195, Paragraph 1.

§ 24. This Act shall enter into force as of the day of its promulgation in the State Gazette, except for:

1. § 21, which shall take effect as of 4 January 2011;
2. § 6, 7, 9, 10, 11, 14, 15, 16, 17, 18 and 20, which shall take effect as of 1 January 2012.

TRANSITIONAL AND FINAL PROVISIONS to the Act to Amend the Medical

Treatment Facilities Act

(SG No. 45/2011, effective 14.06.2011)

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§ 3. The Judiciary System Act (published, SG, No. 64/2007; amended, SG, No. 69/2008 and SG, No. 109/2008, SG, No. 25, No. 33, No. 42, No. 102 and No. 103/2009, SG No. 59/2010, SG, No. 1, No. 23 and No. 32/2011) shall be amended and supplemented as follows:

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§ 5. The ordinance referred to in Article 403a of the Judiciary System Act shall be issued within three months of this Act's entry into force.

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