



REPUBLIC OF SERBIA

Ministry of Justice

# LAW ON HIGH JUDICIAL COUNCIL

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# **LAW ON HIGH JUDICIAL COUNCIL**

## **I GENERAL PROVISIONS**

### **Scope of the Law**

#### Article 1

This Law shall govern the status, competence, organisation and manner of operation of the High Judicial Council (hereinafter “the Council“), requirements and the election procedure for Elective Council Members, term of office and termination of office thereof, ensuring conditions and means for work of the Council.

## **1. STATUS OF THE COUNCIL**

### **Independence and Autonomy**

#### Article 2

The Council is an independent and autonomous body that ensures and guarantees independence and autonomy of courts and judges.

Within its remit the Council shall co-operate with the State Prosecutorial Council, state and other authorities and organisations, Court Councils from other countries, and international organisations.

### **Funds for Operations of the Council**

#### Article 3

Funds for operations of the Council shall be secured from the Republic of Serbia budget upon proposal of the Council.

The Council shall independently dispose of the funds from paragraph 1 of this Article

### **Seat and Symbols of the Council**

#### Article 4

The Council shall be seated in Belgrade.

The Council shall have a stamp containing the name and the Coat of Arms of the Republic of Serbia, and the name and the seat of the body, in accordance with separate laws.

## **Composition of the Council**

### **Article 5**

The Council shall have eleven members.

Members of the Council shall include the President of the Supreme Court of Cassation, the Minister competent for the judiciary and a Chairperson of the competent Committee of the National Assembly, as members by virtue of office, and eight Elective Members elected by the National Assembly, in accordance with this Law.

Elective members comprise six judges with permanent tenure of office, of whom minimum one judge comes from the territory of autonomous provinces, and two credible and prominent jurists with minimum 15 years of professional experience, one of whom is a barrister and the other a law school professor.

## **President of the Council**

### **Article 6**

President of the Supreme Court of Cassation is by virtue of office also the President of the Council.

The President of the Council shall represent the Council, manage its operations and perform other duties in accordance with law.

## **Deputy President**

### **Article 7**

The Council has a Deputy President who is elected from the ranks of judges – Council's Elective Members, and released from office by the Council,

The Deputy Chairperson shall perform duties of the President in case of his/her absence or when prevented.

The manner of election of the Deputy President of the Council and the duration of the mandate thereof shall be specified by the High Judicial Council Rules of Procedure (hereinafter: Rules of Procedure).

## **Relationship with Other Authorities**

### **Article 8**

Courts and other state authorities, as well as judges and court presidents, are obliged to act upon the Council's requests for the submission of information, documents and other material relating to the performance of tasks under the Council's remit.

## **2. STATUS OF MEMBERS**

### **Immunity**

#### **Article 9**

A Council Member shall enjoy immunity equal to that of a judge.

A Council Member may not be held accountable for voting or any opinion expressed in taking decisions of the Council.

A Council Member may not be arrested in a proceeding instituted for a criminal offence committed in performance of duties of a Council Member without prior approval of the Council.

## **Emoluments**

### Article 10

Elective Council Members from the ranks of judges, performing the office in the Council, are entitled to the rights deriving from their employment with the Council.

Members of the Council from paragraph 1 of this Article are entitled to a salary in the amount determined by multiplying the coefficient 6,00 with the baseline for calculation and disbursement in accordance with the Law on Judges.

Members of the Council by virtue of office and members from the ranks of barristers and law school professors are entitled to a separate fee for the work in the Council, to be determined by the competent Committee of the National Assembly.

## **Incompatibility of Jobs**

### Article 11

Elective Council Members from the ranks of barristers and/or law school professors, after taking up office, may not perform duties in bodies that pass or enforce regulations, in public services, and bodies of an autonomous province and local self-governance units.

Elective Council Members from the ranks of judges are exempt from the performance of judge's duties during the time of performing their duty within the Council.

## **Term of Office of Members**

### Article 12

The term of office of Council Members is five years, save for the members by virtue of office.

Elected members of the Council may be re-elected, but not consecutively.

During the term in the Council a Judge-Member of the Council may not be elected judge of any other court.

## **II COMPETENCE AND MANNER OF OPERATION OF THE COUNCIL**

### **Competence**

#### Article 13

The Council shall:

- elect judges to permanent judge's office
- rule on the termination of judges' office
- propose candidates to the National Assembly for the first time elected judges

- propose the election and dismissal of the President of the Supreme Court of Cassation and Court Presidents to the National Assembly
- propose the Constitutional Court Judges-candidates to the Supreme Court of Cassation;
- appoint lay judges;
- decide on the transfer, assignment, and objection to the suspension of judges;
- rule on incompatibility of other services and jobs with judge's office;
- rule in the process of the performance evaluation of a judge and president of the court;
- determine the composition, duration and the termination of the mandate of the members of disciplinary bodies, appoint the members of disciplinary bodies and regulate the manner of operation and decision making in disciplinary bodies;
- rule on legal remedies in disciplinary proceedings;
- approve the in-service training programme for judges and court staff, and monitor the training programme implementation;
- establish the initial training programme for judges;
- pass the Code of Ethics
- determine the number of judges and lay judges for each court;
- perform affairs of the judicial administration within its remit;
- rule on issues of immunity of judges and Members of the Council;
- propose the volume and structure of budgetary funds necessary for the work of the courts for overhead expenses, and oversee disbursement of funds in accordance with law;
- rule on objections in the process of the election of Members of the Council from the ranks of judges;
- form its Working Bodies and permanent and *ad hoc* Committees, and elect their Members;
- provide opinions on amendments to the existing or on the passing of new laws which set out the status of judges, organisation and actions of the courts, as well as other systemic laws applied by courts or of importance for exercising judge's office;
- rule on the existence of conditions for compensation for damages due to illicit and improper work of a judge;
- submit annual reports on its work to the National Assembly;
- perform tasks in respect of the implementation of the National Judicial Reform Strategy within its remit;
- inform the public on its work;
- collaborate with Court Councils from other countries and with international organisations;
- pass acts provided for by law;
- perform other duties as specified by law;

## **Manner of Operation**

### Article 14

The Council may decide to work in a public session, in accordance with the Rules of Procedure.

Council sessions shall be convened by the Chairperson at his/her discretion or at the motion of minimum three Council Members.

The Council may conduct the session if minimum six Council Members are present.

## **Permanent Working Bodies**

### Article 15

Permanent Working Bodies of the Council are: the Commission for Judges' and Court Presidents' Performance Evaluation, the Electoral Commission and Disciplinary Bodies.

The composition and the manner of operation of the Bodies mentioned in paragraph 1 of this Article shall be regulated by act of the Council, in accordance with law.

## ***Ad Hoc* Working Bodies**

### Article 16

To address certain issues from its remit, the Council may establish *ad hoc* Working Bodies.

The forming, composition and the manner of operation of *ad hoc* Working Bodies shall be regulated in more detail under the Rules of Procedure.

## **Decision Making**

### Article 17

Decisions of the Council shall be passed by majority vote of all Members.

Decisions of the Council must be reasoned always, when a legal remedy may be filed against them, and when specified by law and the Rules of Procedures.

## **Rules of Procedure**

### Article 18

The Council shall pass the Rules of Procedure regulating in more detail the manner of operation and the decision making of the Council.

The Rules of Procedure and other general acts of the Council shall be published in the "Official Gazette of the Republic of Serbia".

## **Transparency of Operations**

### Article 19

The Council shall submit an annual Report on its work to the National Assembly.

The Council shall inform the public regularly of its work in a manner set forth under the Rules of Procedure.

### **III PROCEDURE FOR ELECTION OF COUNCIL MEMBERS**

#### **1. GENERAL REQUIREMENTS**

##### **Authorised Nominators**

###### Article 20

Elective Members of the Council shall be elected by the National Assembly at the motion of authorised nominators.

The Council shall be the authorised nominator for Elective Council Members from the ranks of judges.

The Council is obliged to propose to the National Assembly candidates who are directly elected by judges in a manner and in the procedure as provided under this Law.

The authorised nominator for the Elective Member of the Council from the ranks of barristers shall be the Serbian Bar Association.

Candidates for the Elective Member of the Council from the ranks of law school professors shall be proposed by the joint session of Deans of law schools in the Republic of Serbia.

##### **Candidacy and Nomination**

###### Article 21

The decision on the commencement of the procedure for the nomination of candidates for elective members of the Council shall be passed by the President of the Council, not later than six months before the expiration of the term of office of the elected Members of the Council.

The decision from paragraph 1 of this Article shall be published in the “Official Gazette of the Republic of Serbia”.

The President of the Council shall submit the decision on the commencement of the procedure for the nomination of candidates for Elective Members of the Council to the President of the Electoral Commission of the Council, President of the Serbian Bar Association, and the Dean of the oldest Law School in the Republic of Serbia.

Authorised nominators must submit the names of the candidates for the elective Members of the Council to the National Assembly of the Republic of Serbia not later than 90 days before the expiration of the term of office of the Elected Members of the Council.

#### **2. Election of Candidates for the Council Members from the Ranks of Judges**

##### a) General Provisions

##### **Representation of Courts**

###### Article 22

Elective Members of the Council from the ranks of judges shall be elected from the following courts:

- one from the Supreme Court of Cassation, the Commercial Appellate Court, and the Administrative Court;
- one from the appellate courts;



- one from the higher and commercial courts;
- one from the basic courts;
- one from the misdemeanour courts and the Higher Misdemeanour Court.
- one from the courts from the territory of Autonomous Provinces

## **Requirements for Candidacy**

### Article 23

A candidate for the Elective Member of the Council from the ranks of judges may be any judge in the Republic of Serbia who has been an incumbent judge for minimum seven years.

By way of exception to paragraph 1 of this Article a candidate for the Elective Member of the Council from the ranks of misdemeanour courts and the Higher Misdemeanour Court may be any judge of these courts with minimum seven years served in the legal profession after the bar exam.

A candidate status shall be acquired by a judge who is proposed by the session of all judges of one or several courts by type and instance of court, that is, the court from the territory of the autonomous provinces where s/he exercises judge's office.

The session of all judges of one court may propose only one candidate.

By way of exception to paragraph 3 of this Article, no motion of the General Session, that is, the session of all judges is required for acquiring the candidate status for the Elective Member of the Council from the ranks of judges from the Supreme Court of Cassation, the Higher Misdemeanour Court, the Commercial Appellate Court and the Administrative Court, but the candidate status shall be acquired by registration.

A Court President may not be a candidate for the election to the Council.

## **Electoral Right**

### Article 24

Judges shall elect candidates for the Council based on the free, general, equal and direct electoral right, by secret ballot.

No one has the right on any grounds whatsoever to prevent or force a judge to vote or to hold him/her accountable for voting.

The right to elect candidates for the Council is vested in all judges.

A judge may vote only for the candidate in the list of candidates of the type and/or instance of the court where s/he exercises judge's office.

A judge from the territory of Autonomous Provinces, in addition to the candidacy list mentioned in paragraph 4 of this Article, shall also vote for the list of the candidates for the courts from the territory of Autonomous Provinces.

## **Electoral Commission**

### Article 25

The procedure for the nomination of candidates for Elective Members of the Council from the ranks of judges shall be organised and conducted by the Electoral Commission of the High Judicial Council (hereinafter “Electoral Commission“).

The Electoral Commission comprises a Chairperson and four Members and their deputies, elected by the Council from the ranks of judges with permanent judge's office, with their consent.

Deputy Members of the Electoral Commission shall have the same rights and responsibilities as the Members for whom they deputize.

The Council Members may not concurrently be Electoral Commission Members and/or deputy Members.

The term of office of Members of the Electoral Commission is five years, with a possibility to be re-elected.

Members of the Electoral Commission may not run for Elective Members of the Council.

## **Status of the Electoral Commission**

### Article 26

The Electoral Commission shall be autonomous and independent in its work and shall operate on the basis of law and regulations enacted on the basis of law.

The Electoral Commission shall pass decisions by majority vote of all Members.

The Electoral Commission shall be accountable for its work to the Council which shall create conditions for its operations.

All courts are required to extend assistance to the Electoral Commission and provide information necessary for its work.

## **Electoral Activities**

### Article 27

The Electoral Commission, on receiving the decision to commence the procedure for the nomination of candidates, shall pass a decision on electoral activities and timeframes.

The Chairperson of the Electoral Commission shall transmit to court presidents the decision to commence the procedure for nominating candidates and the decision on electoral activities and timeframes.

Court presidents are required to make available the decision to commence the nomination procedure and the decision on electoral activities and timeframes to all judges in their courts, in a proper manner.

## **b) Procedure**

### *Registration of Candidacy*

### Article 28

A candidacy registration form shall be submitted to the Electoral Commission within 30 days as of the date the decision to commence the nomination procedure for Elective Members of the Council is published in the "Official Gazette of the Republic of Serbia".

A signed statement of the candidate on accepting the candidacy, the decision of the session of all judges of the court or courts proposing the candidate, as well as personal and professional information on the candidate shall be enclosed in the candidacy registration form.

### *Procedure following Registration*

#### Article 29

The Electoral Commission shall examine if the registration is timely and complete.

The Electoral Commission shall reject any untimely registration by a ruling.

The Electoral Commission shall, within 24 hours on receiving an incomplete registration form, pass a conclusion inviting the candidate to complete the registration within 48 hours upon receiving the said conclusion, with a caution that otherwise the registration will be rejected.

### *Final List of Candidates*

#### Article 30

After expiry of the time limit under Article 28, paragraph 1, of this Law, the Electoral Commission shall establish the final list of candidates in the subsequent 15-day's period.

The Electoral Commission shall establish one final list of candidates for each instance and type of court, that is, from the courts from the territory of the Autonomous Provinces, whose judges are nominated for Elective Members of the Council from among judges, by virtue of the provision of Article 22, hereof.

The sequence of candidates in the lists shall be established based on the sequence of the submission of candidacy registration forms to the Electoral Commission.

### *Time of Election and Polling Stations*

#### Article 31

The Electoral Commission shall set the date and time of the election and notify all presidents of the courts ten days before the election day.

The court presidents shall send a public notification to all judges about the date and time of the election seven days before the election day.

Voting for Elective Members from the ranks of judges shall be carried out in polling stations at the courts designated by the Electoral Commission.

### *Polling Boards and Voting Material*

#### Article 32

The Electoral Commission shall prepare in due time the voting material for each polling station, consisting of the required number of ballots and the final list of candidates.

The Electoral Commission shall appoint polling boards for each polling station.

A polling board shall consist of three judges who are not running for election.

## *Manner of Voting*

### Article 33

On the voting day, the final list of candidates must be displayed in a visible place in all polling stations and in all courts by instance and type of court, that is, the courts from Autonomous Provinces electing a candidate from such candidacy list.

Each judge shall vote in person.

Ballot is secret.

Only stamped ballots shall be used for voting.

The polling board shall carry out the ballot in the premises of the court designated by the President of the Court in a timely manner.

## *Establishing of Results*

### Article 34

The Electoral Commission shall establish the total number of judges and the number of judges who have voted in each polling station, the number of unused, invalid and valid ballots, and the number of votes won by candidates per polling station, as well as the total number of votes per candidate for each list of candidates.

## **3. Decision on Nomination of Candidates for Elective Council Members**

### **A. Nomination of Candidates from the Ranks of Judges**

#### Article 35

The Council shall pass a decision on the nomination of one candidate, who has won the largest number of votes, or several candidates from each list based on the record on establishing the election results, submitted to the Council by the Electoral Commission.

The Council shall propose several candidates in case when more than one judge in one electoral list wins an approximately equal number of majority votes.

The Council shall submit to the National Assembly the final decision on the nomination of candidates from the ranks of judges from each list.

### **B. Nomination of Candidates from the Ranks of Barristers**

#### Article 36

The procedure for the nomination of candidates for the Elective Member of the Council from the ranks of barristers shall be organised and conducted by the Bar Association of Serbia in a manner ensuring the broadest possible representation of its Members.

The procedure for candidature, election and nomination is carried out in a manner and within timeframes set by the Bar Association of Serbia in its act.

The Bar Association of Serbia shall submit nominations to the National Assembly.

## **C. Nomination of Candidates from the Ranks of Professors**

### **Article 37**

The nomination of candidates for Elective Members of the Council from among law school professors shall be carried out in a manner and under the procedure defined by the joint session of Deans of all law schools in the Republic of Serbia and its act.

The Dean of the oldest law school in the Republic of Serbia shall submit the proposal for the candidate for the Council Member from the ranks of law school professors to the National Assembly, in accordance with the decision of the joint session of all Deans of law schools in the Republic of Serbia.

The joint session of law school Deans in the Republic of Serbia shall be convened and chaired by the Dean of the oldest law school in the Republic of Serbia.

## **4. Election and Taking up Office**

### **Election of Members**

#### **Article 38**

The National Assembly shall elect the Members of the Council at the proposal of authorised nominators.

The National Assembly shall, for the Council Member from the ranks of judges, elect one candidate from each candidacy list.

If the Elected Member of the Council, without justified reason, fails to take up office within 30 days from the day of the election in the National Assembly, s/he shall be deemed as not elected.

The reason for the failure to take up office mentioned in paragraph 3 of this Article shall be established in the Council's decision, which shall notify the National Assembly thereon.

The High Judicial Council shall organise repeated elections for such Member within a period of 60 days.

## **IV TERMINATION OF OFFICE OF THE COUNCIL MEMBERS**

### **Grounds for Termination**

#### **Article 39**

The term of the Council Members by virtue of office shall cease on the date of the termination of office thereof which was the basis for their appointment.

The term in the Council of Elected Members shall cease with permanent loss of working capacity to perform the duty of the Member of the Council, resignation from the Council membership, expiration of the term and release from office.

The term in the Council of Elected Council Members from among judges shall also cease with the date of the termination of judge's office.

The term in the Council of an Elected Member of the Council from among barristers shall end on the day of deletion from the Barristers' Register.

The term in the Council of an Elected Member of the Council from among professors shall terminate on the day his/ her professorship at the law school ends.

## **Premature Termination of the Term of Office**

### **Article 40**

If the term of office of an Elected Member of the Council ends before the term s/he has been initially appointed to, the Council shall pass within 15 days the decision referred to in Article 21, paragraph 1 of this Law.

The procedure of the nomination and election of a new Member shall be carried out pursuant to the provisions hereof.

The term of office of the new Member shall be five years.

## **V PROCEDURE FOR RELEASE FROM OFFICE**

### **Reasons**

#### **Article 41**

An Elected Member of the Council shall be released from office before the expiration of term he/she has been elected to if s/he fails to perform the duty of the Council Member in compliance with the Constitution and law or if convicted to unconditional imprisonment for a criminal offence, that is, the criminal offence which would make him/her unworthy of the position of the Member of the Council.

### **Initiative**

#### **Article 42**

An initiative for the release from office of an Elected Member of the Council may come from any Member of the Council.

An initiative for the release from office of an Elected Member of the Council from the ranks of judges may also come from the President of any Court, based on the decision of the session of all judges.

An initiative for the release from office of an Elected Member of the Council from the ranks of barristers, and/or law school professors may come from their authorised nominators.

### **Assessment of Admissibility of the Initiative**

#### **Article 43**

The Council shall, within seven days upon the receiving of initiative, assess the credibility of grounds for the request for release from office.

If it concludes that grounds for the release from office are not made probable, the Council shall notify the initiator in writing that the initiative has not been adopted.

### **Statement**

#### **Article 44**

On accepting the initiative the Council shall, prior to taking a decision to institute proceedings, allow the Council Member, whose dismissal is requested, to make a statement about the allegations.

## **Instituting the Proceedings**

### Article 45

The Council shall pass a decision on instituting the dismissal proceedings within 15 days upon receiving the initiative.

The decision on initiating the proceedings may order the measure of suspension until the conclusion of the dismissal proceedings.

An Elected Member shall be allowed to make a statement on all the allegations relevant to taking the decision on dismissal.

## **Release from Office**

### Article 46

The Council shall pass a motion for the release from office within 30 days of initiating the proceedings.

The Council Member whose release from office is under deliberation shall not take part in the passing of the motion referred to in paragraph 1.

The decision on the release from office, on grounds of the motion referred to in paragraph 1 of this Article, shall be passed by the National Assembly.

Following the motion mentioned in paragraph 1 of this Article, the Council Member concerned shall be suspended until the decision is passed by the National Assembly.

## **VI ADMINISTRATIVE OFFICE**

### **Tasks and Organisation of Work**

#### Article 47

The Administrative Office is hereby established for conducting professional, administrative and other affairs of the Council.

The organisation, tasks and manner of operation of the Administrative Office is regulated in more detail by an act of the Council.

Regulations governing the status of civil servants and general service employees shall apply to the rights and obligations of employees with the Administrative Office.

### **Secretary of the Council**

#### Article 48

The Office has a Secretary who is appointed to a five year's term and may be re-appointed.

The Secretary is appointed by the Council.

The Administrative Office is managed by the Secretary who is accountable to the Council for his/her work.

The Secretary has a status of a civil servant in power.

The terms and conditions for the appointment of the Secretary are regulated by an act of the Council.

## **Assignment of a Judge**

### Article 49

A judge may be assigned to the Working Bodies of the Council to perform professional tasks.

The decision on the assignment shall be passed by the Council, upon obtaining an opinion of the President of the Court in which a judge performs his/her duty, with the written consent of the judge.

The period of such assignment may not exceed three years.

## **VII TRANSITIONAL AND FINAL PROVISIONS**

### **First Election of the Members of the Council**

#### Article 50

The National Assembly shall, not later than 90 days of entering into force of this Law, elect the Elective Members of the first composition of the Council.

At the election, the National Assembly is required to elect minimum one Member of the Council from the ranks of judges from the territory of the Autonomous Provinces.

Until such time as the first composition of the Council, the High Judiciary Council shall perform the tasks from the remit of the Council relating to the election of Elective Members of the Council from the ranks of judges.

### **Performance of the Function of the Council Member by the President of the Supreme Court of Serbia**

#### Article 51

Until the election of the President of the Supreme Court of Cassation, a Member of the Council by virtue of office shall be the President of the Supreme Court of Serbia.

### **The Elective Members of the First Composition of the Council from the Ranks of Judges**

#### Article 52

The Elected Members of the first composition of the Council from the ranks of judges comprise one judge from the Supreme Court of Serbia and one from the Higher Commercial Court and the commercial courts, that is, two judges each from the district and municipal courts, where minimum one Member must be from the territory of the Autonomous Provinces.

The candidates for the Elected Members of the first composition of the Council shall be proposed to the High Judiciary Council by the sessions of all judges of the courts by type and instance of the court in which the candidate exercises judge's office. The session of all judges of one court can propose only one candidate.

By way of exception to paragraph 2 of this Article, the General Session of the Supreme Court of Serbia, that is, the session of all judges of the Higher Commercial Court, may propose more than one candidate.

The candidates from paragraphs 2 and 3 of this Article shall be proposed to the High Judiciary Council within 15 days from the day of coming of this Law into effect.



Not later than 30 days from coming of this Law into effect, the High Judiciary Council shall propose to the National Assembly one or more candidates for each Elective Member of the Council from the ranks of judges, in accordance with the number of judges and type and instance of court, specified in paragraph 1 of this Article. When nominating candidates, the High Judiciary Council shall take into consideration the nominations from paragraphs 2 and 3 of this Article.

The High Judiciary Council shall establish the nomination from paragraph 5 of this Article by majority vote of the narrower composition comprising permanent members and the member-judges invited.

Elective Members of the first composition of the Council from among judges are entitled to the basic salary equal to the basic salary of the President of the Supreme Court of Serbia until 1 January 2010.

### **Elective Members of the First Composition of the Council from the Ranks of Barristers and Law School Professors**

#### Article 53

The Bar Association of Serbia and the joint session of all Deans of law schools in the Republic of Serbia are obliged to propose to the National Assembly one or several candidates for the election of Elective Members of the first composition of the Council from the ranks of barristers and law school professors, within 30 days from coming of this Law into effect.

The nomination of candidates referred to in paragraph 1 of this Article shall be conducted by the analogous application of this Law.

### **Constitutive Session of the Council**

#### Article 54

The constitutive session of the Council shall be held within seven days from the election of Elective Members.

The constitutive session of the Council shall be convened and chaired by the President of the Supreme Court of Serbia.

### **Termination of Term of Office of the Elected Members of the Council's First Composition**

#### Article 55

The term of office of the Elected Members of the first composition of the Council from the ranks of judges shall terminate on the day the Elective Members of the permanent composition take up office, not later than the expiry of five-year's term of office.

The term of office of the Elected Members of the first composition of the Council from among barristers and law school professors shall end with the expiry of the term of office stipulated by this Law.

The term of office of the Elected Members of the first constitution of the Council shall also end in all other cases specified under the provisions of this Law.

## **Resumption of Judge's Office of the Elected Members of the Council's First Composition**

### **Article 56**

An Elected Member from the ranks of judges shall, on termination of the term of office within the first composition of the Council, resume to perform judge's function in a directly higher instance court than the court where s/he performed judge's duties, provided that s/he meets the requirements to be elected judge in such court.

A judge shall continue to exercise judge's office in the court that has assumed jurisdiction of the court where the judge performed his/her function if s/he fails to meet the requirements to be elected judge in a directly higher instance court.

Decisions from paragraphs 1 and 2 of this Article shall be passed by the Council in permanent composition.

## **Timeframe for Conducting the Electoral Procedure for the Council's Permanent Composition**

### **Article 57**

The procedure for the election of the permanent composition of the Council from the ranks of judges shall be conducted within six months from the day the courts begin to operate specified by the Law on Organisation of Courts.

## **Affairs of the Administrative Office and Taking Over of Staff**

### **Article 58**

Within 90 days from the day of establishing, the Council shall take over from the Ministry competent for the judiciary the rights, obligations, cases and archives necessary for the performance of the affairs assumed, in accordance with the competence set out in this Law.

The Council shall also take over civil servants and general service employees who work within the scope assumed.

The manner of assuming the cases, and taking over of civil servants and general service employees shall be regulated by an act passed by the Minister competent for the judiciary.

Until the vacancies provided for by the act on internal organisation and job classification in the Administrative Office are filled, certain professional and administrative tasks for the Council's needs may be performed by the Ministry competent for the judiciary, in accordance with the Council's act.

## **By-laws**

### **Article 59**

By-laws provided for by this Law shall be passed within 90 days from the constitution of the Council.

General acts of the High Judiciary Council shall apply until the by-laws from paragraph 1 of this Article are passed, unless they are contrary to this Law.

## **Assumption of the Competences of the High Judiciary Council**

### Article 60

On the day of the constitution the Council shall assume the competences of the High Judiciary Council as specified by the Law on Judges ("Official Gazette of the RS", No. 63/01, 42/02, 17/03, 27/03, 29/04, 35/04, 44/04, 61/05, 101/05 and 46/06).

## **Termination of Effectiveness of the Law on High Judiciary Council**

### Article 61.

On the day of the constitution of the Council, the Law on High Judiciary Council shall cease to apply ("Official Gazette of the RS", No. 63/01, 42/02, 39/03, 41/03 - correction, 44/04 and 61/05), in the part relating to judges.

## **Entry into Force**

### Article 62.

This Law shall come into effect on the eighth day after its publication in the "Official Gazette of the Republic of Serbia".