



14.12.00 - published in No. 37/November 2000

Official Journal of the Republic of Albania 1798 - 1806

© OSCE Presence in Albania, 2000

REPUBLIC OF ALBANIA

THE ASSEMBLY

LAW

No. 8677 dated November 2, 2000

ON THE ORGANIZATION AND FUNCTIONING

OF THE JUDICIAL POLICE

In reliance on articles 78 and 83 point 1 of the Constitution, on the proposal of the Council of Ministers,

THE ASSEMBLY

OF THE REPUBLIC OF ALBANIA

D E C I D E D:

CHAPTER I

GENERAL PROVISIONS

Article 1

Object of the Law

This law specifies the rules of attribution of the functions of the judicial police and of the functioning of the services and sections of the judicial police.

Article 2

Juridical Bases of the Organization and Functioning of the Judicial Police

The organization and functioning of the judicial police rely on the provisions of the Constitution, the Code of Criminal Procedure, the Criminal Code, the law "On the State Police," the provisions of this law and those of other legal and statutory acts that regulate the activity of the judicial police.

Article 3

Duties of the Judicial Police

The judicial police are the subject of the criminal proceeding that has the principal duty of obtaining knowledge about criminal acts, preventing further consequences because of them, and carrying out full and comprehensive investigative activities, on their own initiative or by order or delegation, for discovering the perpetrators and obtaining evidence about their criminal activity, as well as other duties contemplated in the Code of Criminal Procedure and in other legal provisions, with the purpose of implementation of the criminal law.

Article 4

Dependency of the Judicial Police

1. In the exercise of their duties and functions, the judicial police are under and are directed and controlled by the prosecutor.
2. The court charges and orders the judicial police to perform procedural duties through the prosecutor.
3. An officer and agent of the judicial police is obligated in any case to fulfil the obligations related to the function of the judicial police even in the following cases:
 - a) when he is not serving in a service of the judicial police;
 - b) regardless of the territory and circumstances in which he finds himself;
 - c) he is found outside working hours.

Article 5

Exercise of the Function of the Judicial Police

1. An employee of the State Police, in the high or medium role, exercises the function of an officer of the judicial police, while one in the basic role exercises the function of agent of the judicial police. An employee of the State Police of the major role does not exercise the function of the judicial police.
2. An officer and agent of other police forces and public institutions exercises, respectively, the function of an officer or an agent of the judicial police if the law recognizes such a function to him and the manner contemplated by it.

CHAPTER II

SERVICES OF THE JUDICIAL POLICE

Article 6

Services of the Judicial Police

1. Within the meaning of article 31 of the Code of Criminal Procedure, all the entities of the State Police, police forces and other public institutions on which, according to law, the competent organ charges the primary and continuing duty of performing the functions contemplated in article 30 of the Code are services of the judicial police.
2. The officer who directs services of the judicial police is responsible to the prosecutor who is directing the investigation for the implementation of the duties contemplated in the Code of Criminal Procedure and in other legal provisions by the officers and agents of the judicial police under him.
3. When a service of the judicial police is organized and exercises its functions on the national territorial extent or in the territorial competency of more than one court, the officer directing this service is responsible for matters of investigation to the prosecutor of the prosecutorial office who is directing the investigation according to the territorial or subject matter competency specified for the latter on the basis of the Code of Criminal Procedure.
4. In all other cases, the directing officer is responsible to the prosecutor of the prosecutorial office where the center of the service of the judicial police is located.
5. The directing officers of services of the judicial police, according to the criteria and time periods of the above paragraph, shall submit to the prosecutor of the competent prosecutorial office a list of the respective names, role and rank of the officers taking part in the services of the judicial police. In a case of transfers to another duty and the respective substitutions, this notification shall be made no later than ten days before the carrying out of these actions.
6. Transfer to another duty or promotion of the directors of the services of the judicial police is done by the respective head of the police, after having received the prior consent of the General Prosecutor or the prosecutor to whom this right has been delegated by him. An objection of the General Prosecutor shall be reasoned and may not be done in cases of giving ranks to the directors of the services of the judicial police.
7. The requirement of prior consent of the General Prosecutor in connection with a promotion in duty, role or rank shall be required up to two years from the date when the director of the service of the judicial police is transferred or no longer exercises such functions.

Article 7

Organization of Services of the Judicial Police

1. The competent organ of the police, in compliance with the respective legal provisions on number of personnel, is responsible for and sees to the establishment of a service of the judicial police at every location where the respective prosecutorial offices have their center, as well as for completing it with the composition and number of personnel necessary to fulfil their functions.
2. In the cases and manners contemplated by law, and depending on the organization of the judicial power and the office of the prosecutor for pursuing particular forms of criminality, the competent organ is responsible for and sees to the establishment and functioning of special services of the judicial police.

CHAPTER III

SECTIONS OF THE JUDICIAL POLICE

Article 8

Sections of the Judicial Police

1. Sections of the judicial police are created in the prosecutorial offices at the court of the first level. In compliance with law, special sections of the judicial police are also created in prosecutorial offices at other courts of the judicial system.
2. The sections of the judicial police at the prosecutorial offices consist of the officers and agents of the judicial police designated by the competent heads of the police and other public institutions, as well as of jurists.
3. In the composition of a section of the judicial police, no less than half of the number of personnel are officers of the judicial police. Jurists, in the capacity of officer of the judicial police, may constitute no more than one fourth of the number of personnel of the section of the judicial police.
4. According to the request of the General Prosecutor, for performing investigations in special cases that require particular specialization, the heads of the police or respective public institution put at the disposition of the prosecutor competent for the investigation, for the entire period necessary for the special investigation, officers or agents of the judicial police who are specialists in the respective fields. The persons designated according to this paragraph are not included in the number of personnel of the section of the judicial police.
5. The structure, including number, of personnel of the sections of the judicial police is set in accordance with the needs and requirements of the fight against criminality, taking account of the number of prosecutors as well as personnel of the police in service at each territorial unit where the respective prosecutorial office exercises its competency.
6. The General Prosecutor, in coordination with the Minister of Public Order, the Minister of Justice and the ministers who have police forces in their competency that exercise the functions of the judicial police, every two years set the personnel structure for each section of the judicial police, as well as the respective number of personnel that should be designated by each police force.
7. Within sixty days from the specification of the personnel structure of the sections of the judicial police, the competent ministers are obligated to complete the respective personnel number of officers and agents contemplated for the sections of the judicial police.

Article 9

Direction of the Sections of the Judicial Police

1. In the exercise of the functions of the judicial police, the sections of the judicial police are under the head of the prosecutorial office where they have been established. The latter, in compliance with the requirements and needs of the prosecutors and the court, directs and coordinates the activity of the section of the judicial police.
2. A prosecutor of a higher level has at his disposition all sections of the judicial police that operate in the respective territory in their competency.
3. In the sections of the judicial police, the officer with the highest rank or qualification, as a rule, is responsible for the officers and agents of the judicial police who belong to the police or institution of which they are a part.

Article 10

Conditions for Designation as an Officer and Agent in the Sections of the Judicial Police

1. The officers and agents of the judicial police may not exercise their activity in the sections of the judicial police in cases when:

- a) there are data or criminal or police proceedings in their charge;
- b) they have conducted judicial police activity not respecting the rules contemplated in the Code of Criminal Procedure and the lawful requirements of the competent prosecutor;
- c) they have had disciplinary proceedings in implementation of provisions that regulate the activity of the respective police;
- ç) they have shown incorrect relations and positions with members of the police personnel, as well as outside their duty.

2. Offices of the judicial police of the full-time staff of the State Police shall have higher police education, while those of other organs shall have higher juridical or special professional education in other particular fields that are related to the investigation of criminal acts.

3. Agents of the judicial police shall have at least secondary education.

Article 11

Appointment, Transfer and Discharge from the Sections of the Judicial Police

1. Immediately after the specification of the personnel structure and number for each section of the judicial police or notification of vacant positions in them, the Minister who has the police force in his competency announces a competition to fill them, in which officers and agents of the judicial police who fulfil the conditions contemplated in article 9 of this law may take part.

2. Within 30 days from the date the competition is announced, a police officer or agent interested in working in the sections of the judicial police submits the respective application to the service or command in which he takes part, attaching the documentation that proves that he meets the conditions for acceptance.

3. In each case, the application shall have attached the personal data of the candidate and a document that verifies that he has conducted activity of the judicial police for a period of at least two years in the last five years of work.

4. In cases when the number of applications submitted is not sufficient to fill the vacant places announced or to make possible the approval by the General Prosecutor, the ministers who have the police forces in their competency send the latter, for approval and final designation, a list of candidates with not less than three persons for each unfilled place, selected by them from among the officers and agents who meet the conditions for acceptance in the sections of the judicial police.

5. Within 60 days from the announcement of the competition, the Minister who has the police force in his competency makes a preliminary evaluation of the candidacies submitted and submits to the General Prosecutor an ordering, by names, according to the conditions and abilities that they possess as well as the needs of the police force.

The preliminary evaluation of candidacies is done by a joint commission of the Ministry and the General Prosecutor. The composition of the commission and the procedures of selection are set by joint instruction of the Minister and the General Prosecutor.

6. A list of the candidacies submitted shall have attached the application and personal documentation of the interested persons.

7. Within 30 days from the approval of the General Prosecutor and the sending of his request by names, the Minister who has the police force in which the candidate takes place in his competency assigns him to the respective section of the judicial police.

8. Jurists in the composition of the sections of the judicial police are appointed to duty by the General Prosecutor.

9. The removal of officers and agents of the sections of the Judicial Police is done by the competent organ of the respective police force according to the reasoned request of the prosecutor who directs the section, after he has informed the General Prosecutor.

10. The transfer, even if temporary, of officers and agents of the sections of the Judicial Police is done according to the reasoned request of the competent organ of the police force, after the prior opinion and consent of the General Prosecutor or the prosecutor to whom this right has been delegated by him has been taken. An objection of the General Prosecutor shall be reasoned and may not be done in cases of promotion in duty, role or ranking of the officers and agents of the Judicial Police.

11. The requirement of prior consent of the General Prosecutor in connection with promotion in duty, role or grade shall be required up to two years from the date when the officer or agent of the Judicial Police was transferred or no longer exercises such functions.

Article 12

Juridical Position and Career of Officers and Agents of the Sections of the Judicial Police

1. The juridical-administrative position and the career of officers and agents of the sections of the judicial police are regulated by the respective legislation for the police of which they are a part, except when otherwise contemplated in this law.
2. The officers and agents of the sections of the judicial police, with the request or approval of the director of the section, may be exempted from the use of a uniform and, in any case, shall have a numbered badge that is kept with them and put on their uniforms.
3. The officers and agents of the sections of the judicial police may not be charged with duties that are not related to the activity of the judicial police to which they have been appointed or delegated by the competent prosecutor, except for cases of urgency or for training needs, for which the director of the office of the prosecutor where the section of the judicial police functions has been notified and his consent obtained.

CHAPTER IV

RESPONSIBILITY OF OFFICERS AND AGENTS OF THE JUDICIAL POLICE

Article 13

Direction and Control

1. The exercise of activity of the judicial police by the officers and agents of the judicial police is directed and overseen by the prosecutor, according to the rules set in the Code of Criminal Procedure.
2. The directors and responsible structures of the police charged with the exercise of functions of the judicial police have the duty of fulfilling and supporting the realization of these functions and bear responsibility according to law for every hindrance of it.
3. The officers and agents of the judicial police shall answer and report only to the competent prosecutor in connection with the data and progress of the investigation.

Article 14

Responsibility of Officers and Agents of the Judicial Police

1. Except when they constitute a criminal offense, the following actions and failures to act are violations of discipline in the exercise of duty by the officers and agents of the services and sections of the judicial police:
 - a) reporting data about the investigation outside the office of the prosecutor;
 - b) hiding data or failing to notify the court or prosecutor about the commission of a criminal offense, in accordance with the time periods and manner contemplated in the Code of Criminal Procedure;
 - c) failing to perform, late performance of or partial execution of a lawful order of the court or prosecutor that is related to the exercise of the functions of the judicial police;
 - ç) performance of other actions and failures to act in violation of the provisions of the Code of Criminal Procedure.
2. A disciplinary proceeding against an officer or agent of the judicial police who is accused of serious violations of discipline in the exercise of these functions starts from the prosecutor of the prosecutorial office who directs the section of the judicial police in which he takes part or where the center of the service of the judicial police is located.
3. To initiate a disciplinary proceeding, the competent prosecutor immediately notifies the Minister who has the police force in his competency and the director of the service of the judicial police or the unit or division of the police force in which the officer and agent of the judicial police takes part.

4. For other disciplinary violations, different from those indicated in paragraph 1 of this article, the competent prosecutor immediately notifies the Minister who has the police force in his competency and the respective director of the service of the judicial police in which the officer and agent of the judicial police takes part, who proceed according to the respective legal provisions.

Article 15

Disciplinary Proceeding

1. An officer or agent of the judicial police who is accused of serious disciplinary violations in the exercise of judicial police functions is notified in writing of the causes, facts and provisions violated for which he is being proceeded against with disciplinary measures, of his right to prepare a defense and also of the date of holding the disciplinary hearing.

2. An officer or agent of the judicial police who is subjected to a disciplinary proceeding may within 10 days from the date of the holding of the disciplinary hearing submit his defense in writing and the documents and request the calling and hearing of witnesses.

3. The disciplinary hearing is constituted by a commission that is chaired by a prosecutor of the prosecutorial office at the court of the first level competent for the territory and by two officers of the judicial police. The members of the commission are designated for a one year period, respectively by the director of the prosecutorial office at the competent court and by the regional director of the police forces in which the officer or agent who is sought to be subjected to the disciplinary proceeding takes part.

4. The accusation against the officer or agent of the judicial police is made by the prosecutor who requested the disciplinary proceeding or a substitute designated by him.

5. The officer or agent who is subjected to the disciplinary proceeding has the right of defense with a defender selected from among the members of his police force or lawyers.

6. The decision of the commission is given at the end of the disciplinary proceeding, during which the prosecutor who makes the accusation and the person who is sought to be punished submit their evidence. In the case of differing opinions, the commission decides by majority vote.

7. The prosecutor or the person punished has the right to appeal in court against a decision of the disciplinary commission connected with the disciplinary measures contemplated in letters "b" and "c" of point 10 of this article.

8. A disciplinary commission or court may decide on the suspension from the exercise of judicial police functions of the officer and agent who is accused during the adjudication of the question.

9. A final decision of disciplinary punishment and that of suspension in the exercise of judicial police functions are executed immediately by the competent director of the police force in which the officer or agent proceeded against takes part.

10. The disciplinary measures against a guilty officer or agent of the judicial police, according to the importance of the disciplinary violation, are as follows:

- a. reprimand with a warning,
- b. suspension from work relations for a period of up to six months,
- c. discharge from duty.

11. With a disciplinary punishment, the officers and agents of the sections of the judicial police are removed from the section of the judicial police, while for those of the services of the judicial police, the provisions of law that regulate the activity of the police force of which they are a part are applied.

CHAPTER V

TRANSITIONAL AND FINAL PROVISIONS

Article 16

Reorganization of the Judicial Police

1. Within the month of December 2000, the reorganization and functioning of the services and sections of the judicial police at

the prosecutorial offices shall conclude in accordance with the rules set in this law.

2. The heads of the police forces and other public institutions that exercise attributes of the judicial police, within 30 days from the entry of this law into force, shall submit to the General Prosecutor a list of the respective names, role and rank of the officers who direct the services of the judicial police.

Article 17

Implementing Provisions

The General Prosecutor, the Minister of Justice, the Minister of Public Order, as well as the ministers who have police forces in their competency that exercise functions of the judicial police, together or separately, issue orders and instructions in implementation of articles 5, 6, 7, 10, 11, 14 and 15 of this law, as well as in relation to the matters that follow:

- a) The exchange of information among sections and services of the judicial police for questions related to coordination of the fight against and state of criminality.
- b) The planning, coordination and organization of drilling, educational and training activities for officers and agents of the judicial police.
- c) The coordination and organization of activity of the services and sections of the judicial police for the implementation of the procedural duties by their officers and agents.

Article 18

Repeal of Acts

Decree no. 1188 dated August 10, 1995 "On the judicial police" is repealed.

Article 19

Entry into Force

This law is effective 15 days after publication in the "Official Journal."

CHAIRMAN

Skënder Gjinushi

Promulgated by decree no. 2798 dated November 20, 2000 of the President of the Republic of Albania, Rexhep Meidani.