

## **JUDICIAL POLICE, LAW**

### **POLICIA GJYQËSORE, LIGJ**

#### **DISCLAIMER**

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Unofficial translation of the initial law on Judicial Police and the following amending laws:

Initial law no nr. 8677, dated 02.11.2000

**Amending Law no 9241, dated 10.06.2004<sup>1</sup>**

**Amending Law no 10 301, dated 15.07.2010<sup>2</sup>**

Compiled on 20.05.2015, done by Robert Gerbi

#### **L AW**

No. 8677, dated 2.11.2000

#### **ON ORGANIZATION AND FUNCTIONING OF JUDICIAL POLICE**

Pursuant to articles 78 and 83, point 1 of the Constitution, upon the proposal of the Council of Ministers,

#### **THE ASSEMBLY OF THE REPUBLIC OF ALBANIA**

#### **DECIDED:**

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<sup>1</sup> **This amendment has been promulgated upon the Decree of the President of the Republic no 4267, dated 08.07.2004 and it contains the following transitory provisions**

**Article 2**

**This law enters into force 15 days after its publication in the Official Journal and its financial effects commence on the 01 July 2004.**

<sup>2</sup> **This amendment has been promulgated upon the Decree of the President of the Republic no 6651, dated 27.07.2010 and it contains the following transitory provisions**

**Article 24**

**Commencement of Financial effects of this law**

**The financial effects deriving from the implementation of Article 12/a of this law commence on the 01 January 2011.**

**Article 25**

**Entry into force**

**This law enters into force 15 days after its publication in the Official Journal.**

## **CHAPTER I GENERAL PROVISIONS**

### **Article 1 Scope of law**

The present law shall establish rules of the assignment of judicial police functions of the operation of judicial police services and sections.

### **Article 2**

#### **~~Legal bases of organization and functioning of the judicial police~~**

~~Organization and functioning of the judicial police rely on the provisions of the Constitution, the Criminal Procedure Code, Criminal Code, the Law "On the State Police", the provisions of this law and in other legal acts and regulations governing the operation of judicial police.~~

#### **Judicial Police operating principles**

1. Observance of law, safeguarding and protection of human rights and fundamental freedoms, professionalism and integrity shall be the pillars of organization and functioning of the Judicial Police in support of accomplishment of the mission for the fight against criminality and its prevention.
2. The Judicial Police shall carry out procedural activities during all stages of criminal proceedings, ordered or delegated by the prosecuting authority or upon its own initiative, according to the rules of the procedural legislation in force.
3. Cooperative relations between the Judicial Police and prosecutor's office shall be based on the implementation of functional tasks according to the role and responsibilities as divided and established by the legislation in force

### **Article 3**

#### **~~Judicial Police duties~~**

~~The judicial police is subject of criminal proceedings that as its main task is to get knowledge about criminal acts, to prevent further consequences that derive from them, conduct full and comprehensive investigative actions by initiative or by order or delegation, for the identification of authors and to provide evidence of their criminal activity, and other duties provided for in the Criminal Procedure Code and other legal provisions, in order to enforce the criminal law.~~

#### **Judicial Police Functions**

1. The Judicial Police, in quality of the subject of criminal proceeding, shall discharge the following functions:
  - a) Is informed of criminal offences;
  - b) Prevents or hinders further consequences deriving from criminal offences;
  - c) Searches perpetrators of criminal offences;

- ç) Carries out necessary actions to provide sources of evidence and collect anything serving the application of criminal law;
  - d) Conducts any investigation and actions ordered or delegated by the prosecuting authority;
  - dh) Carries out procedural actions for enforcement of criminal judicial rulings;
  - e) Carries out actions in the framework of criminal jurisdictional relations with foreign authorities within or out of the territory of the Republic of Albania;
  - ë) Carries out actions in application of law no. 10 192, dated 3.12.2009 “On prevention and fight against organized crime and trafficking through preventive measures against property”;
  - f) Carries out any other duties provided for in the legislation in force.
2. The functions provided for in point 1 of this article shall be exercised by the Judicial Police officers and agents.
3. The Judicial Police shall discharge its functions in accordance with the regulations of the Criminal Procedure Code.

#### **Article 4**

##### **Judicial Police subordination**

- ~~1. In the exercise of their duties and functions, the judicial police is depending on and directed and controlled by the prosecutor.~~
  - ~~2. The Court charges and orders the judicial police to perform procedural duties through the prosecutor.~~
  - ~~3. The officer and agent of the judicial police is obliged to fulfil in any case the obligations associated with the function of the judicial police in the following cases:~~
    - ~~a) When not serving in a judicial police service; regardless of the territory and the circumstances in which he is; or out of the time of service.~~
1. The Judicial Police shall exercise its functions under the subordination of the prosecutor and shall be run and controlled by him/her.
2. The Judicial Police shall execute orders and instructions of the prosecutor on identification of issues to be investigated with priority, concrete actions to be carried out and duration required for the investigation.
3. Prosecutor’s offices and courts directly have the section personnel at their disposal and may use any services of the Judicial Police

#### **Article 5**

##### **Exercise of Judicial Police functions**

- ~~1. An employee of the State Police, in the high or middle management level, exercises the function of a judicial police officer, while the police employee of the basic role is acting as agent of the judicial police. The State Police Employee of the major management level does not exercise judicial police functions.~~
- ~~2. The officer and agent of other police forces and public institutions exercises the function of the officer or agent of the judicial police if the law provides them with such a function and the way how to perform it.~~

1. Judicial Police functions shall be carried out by Judicial Police officers and agents.
2. Notwithstanding other provisions by special law, State Police employees of first management level, middle level and operational level with the rank of chief inspector shall be Judicial Police officers.
3. Notwithstanding other provisions by special law, State Police employees of operational level with a lower rank than that of the chief inspector shall be Judicial Police agents.
4. Judicial Police officers and agents shall be also the employees of other police services to whom this quality is recognized by law as well as to persons to whom the functions of the Judicial Police are recognized by law. The latter shall exercise the Judicial Police function within the limits of service entrusted to them and according to the attributes assigned by law

#### **Article 5/a**

##### **Discharge of Judicial Police functions**

Judicial Police officers and agents shall be obliged to carry out their functions deriving from the legislation in force, notwithstanding:

- a) The fact if they do not serve in a particular Judicial Police Service;
- b) The territory where they are and respective circumstances;
- c) The fact of being out of working hours.

#### **Article 5/b**

##### **Prohibition of publication of the acts**

The Judicial Police shall apply the regulations of the legislation in force for the prohibition of the publication of acts substantiating procedural actions as well as any other information deriving therefrom

## **CHAPTER II**

### **JUDICIAL POLICE SERVICES**

#### **Article 6**

##### **Judicial Police Services**

1. In the meaning of article 31 of the Code of Criminal Procedure, judicial police services shall be all units of State Police, of police and other public institutions which, according to law, are assigned by the competent body the primary and continuous duty of discharging the functions provided for in article 30 of this Code.
2. The **Judicial Police officer of the highest management level of the service** who runs the judicial police services shall be responsible before the prosecutor who leads the investigation for the implementation of duties provided for in the Code of Criminal Procedure and other legal provisions by judicial police officers and agents under his/her subordination.
3. In cases when the judicial police service is organized and exercises its functions in the national territorial extension or under the territorial competence of more than one court, ~~the leading officer of this service~~ **the Judicial Police officer of the highest management level of the**

service shall be responsible for investigation issues before the prosecutor of the prosecutor's office conducting the investigation under the territorial or substantive competence established for the latter by virtue of the Code of Criminal Procedure.

~~4. In all other cases, the leading officer shall be responsible before the head of the prosecutor's office under whose territorial competence is the Judicial Police service centre~~

In all other cases, the Judicial Police officer of the highest management level for the service shall be responsible before the head of the prosecutor's office under whose territorial competence is the Judicial Police service centre.

~~5. The leading officers of the Judicial Police Services, in compliance with the criteria and deadlines of the paragraph above, shall submit to the head of the competent prosecutor's office the list of names, respective level and rank of employees who participate in Judicial Police Services. In the case of transfers to other duties and the corresponding substitutions, this notification shall be made not later than ten days before the conduct of these operations.~~

The Judicial Police Officer of the highest management level for the service shall submit to the head of the competent prosecutor's office the list of names, respective level and rank of employees who participate in Judicial Police services. Such list shall be updated in cases of transfers, promotions and dismissals of the employees within 10 days. The list shall be sent to the head of the competent prosecutor's office within 5 days from its update

6. The transfer to another duty or promotion of the heads of judicial police services shall be effected by the respective police director after having obtained the preliminary approval of the Prosecutor General or of the prosecutor to whom such right is delegated by him/her. The objection of the Prosecutor General must be well-grounded and cannot be made in cases of promotion of the heads of judicial police services.

7. The preliminary approval of the Prosecutor General regarding the promotion to duty, function or rank must be claimed up to two years from the date when the head of the judicial police service is transferred or does not any longer exercise such services.

## **Article 7**

### **Organization of Judicial Police services**

~~1. The competent authority of the police, in accordance with the relevant provisions of the organic law, is responsible and cares for the establishment of a judicial police service at every location where the relevant prosecution offices have their seat, as well as meeting with the composition and number needed to fulfil their functions.~~

~~2. The competent authority in cases and manners provided by law, and depending on the organization of the judicial power and the prosecution for tracking specific forms of criminality, responds and cares for the establishment and operation of special services of the judicial police.~~

1. Judicial police services shall retain the organization and hierarchy according to the organizational structure of the public institution where they participate.

2. The head of the institution whose employees enjoy by law the quality of Judicial Police officer or agent, shall be responsible and take care of the establishment of the Judicial Police service in each

area where they have the respective prosecutor's offices and to fill in the appropriate number of personnel for the discharge of their functions.

3. The head of the institution, in cases and ways provided by law and depending on organization of the judicial power and of the prosecutor's office for the follow up of special forms of criminality, shall be responsible and take care of the establishment and functioning of ad hoc Judicial Police services

## **CHAPTER III JUDICIAL POLICE SECTIONS**

### **Article 8**

#### **Judicial police sections**

1. The judicial police sections shall be established in the prosecution offices at the court of first instance. Pursuant to law, ad hoc judicial police sections shall be also established at the prosecutor's offices attached to other courts of the judicial system.

2. Judicial police sections at the prosecutor's offices shall consist of judicial police officers and agents appointed by the competent police directors and other office-holders of public institutions as well as ~~by jurists~~ by jurists and specialists of different areas of expertise.

~~3. In the composition of the judicial police section, not less than half of their organic number are judicial police officers. The jurists, in the quality of judicial police officer, may constitute no more than a quarter of the number of employees of the judicial police section.~~

4. Upon the request of the Prosecutor General, for investigations in specific cases, which require special qualification, the police directors or directors of the respective public institution shall make available to the competent prosecutor for the investigation during the entire period required for the ad hoc investigation, judicial police officers or agents who are specialists of respective areas. The persons designated under this point shall not be included in the organizational structure of the judicial police section.

5. The organizational structure of the judicial police sections shall be established in accordance with needs and requirements for the fight against criminality, taking into account the number of prosecutors and police employees in service at each territorial unit where the respective prosecutor's office exercises its competences.

~~6. The Prosecutor General, in coordination with the Minister of Interior, Minister of Justice and ministers who have under their competence police forces exercising Judicial Police functions, every two years establish the organizational structure for each Judicial Police section, police composition and the respective number of the personnel to be assigned by each police force.~~

The Prosecutor General, in coordination with the Minister of Interior, Minister of Justice and ministers who have under their competence police forces exercising Judicial Police functions, pursuant to provisions of point 5 of this article, by a joint order and on a two-year basis shall establish:

a) The organizational structure for each Judicial Police section;

b) The ratio of the employees assigned by the Prosecutor General with the police force employees;

c) Police force composition;

ç) Respective number of the personnel to be assigned by each police force

7. The competent ministers, within sixty days from the designation of the organizational structure of judicial police sections, shall be obliged to fill the respective number of the personnel of officers and agents, provided to the judicial police sections.

8. The members of the Judicial Police sections may not be excluded from the Judicial Police activity except with the consent of the Prosecutor General. They may not be replaced or excluded from concrete investigation assigned to them, notwithstanding the procedural stage of this investigation, except by decision of the head of prosecution office

### **Article 8/a**

#### **Implementation of procedural actions**

1. The Judicial Police Service shall terminate the procedural actions in cases of criminal proceedings instituted on the basis of the reference by the Judicial Police service itself. The prosecutor may order the Judicial Police service for the implementation of further procedural actions even in cases when the notification/reference of the criminal offence shall be made by other various sources from Judicial Police services.

2. If the prosecutor deems that the procedural actions must continue and be completed by him/her in person or by the Judicial Police section, then he/she shall notify the head of the Judicial Police service who has referred the criminal offence and shall claim the prompt delivery of acts if they are available at the Judicial Police Service. The prosecutor shall inform in writing the Judicial Police Service of the way of termination of the referred criminal proceeding.

3. The Judicial Police Section shall complete procedural actions in cases of criminal proceedings instituted by the prosecutor ex officio or by a lawsuit brought by the prosecutor. The latter, depending on the nature and complexity of the case, may order the implementation of further procedural actions by the Judicial Police services or by joint investigation groups of the Judicial Police services and Judicial Police sections. More detailed rules shall be determined by a joint instruction of the Prosecutor General and the Minister of Interior after obtaining the opinion of ministers who have the Judicial Police under their subordination.

4. The head of Judicial Police services shall inform the prosecutor of the issues reported during the implementation of procedural actions

### **Article 9**

#### **Management of judicial police sections**

1. In exercising the judicial police functions, the judicial police sections shall be under the subordination of the ~~office holder~~ head of the prosecution office at which they are established. The latter, in accordance with needs and requirements of the prosecutors and the court, shall run and coordinate the activity of the judicial police section.

2. The senior prosecutor of ~~a higher level~~ shall have at his/her disposal all judicial police sections operating within the respective territory under their competence.

3. In the judicial police sections, the officer with the highest rank ~~and qualification~~, as a rule, shall be responsible for the judicial police officers and agents who belong to the police or the institution they are part of.

### **Article 10**

#### **~~Conditions for appointment as an officer and agent of the judicial police sections~~**

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

- ~~a) they have a criminal or police record;~~
- ~~b) they have performed judicial police activities without respecting the rules laid down in the Criminal Procedure Code and the legitimate requirements of the competent prosecutor;~~
- ~~c) they have had disciplinary proceedings pursuant to the provisions governing the relevant police activity~~
- ~~ç) they have demonstrated incorrect attitudes and relationships with members of police staff, as well as out of their office.~~

~~2. The judicial police officers of the State Police effectives must have higher police education, while those of the other bodies they must have higher legal education or special professional education in other specific areas related to the investigation of criminal offenses.~~

~~3. Agents of the judicial police should have at least high school education.~~

#### **Appointment criteria**

1. A citizen may be appointed as an officer at Judicial Police sections if he/she meets the following conditions:

- a) To have completed the study program of second level if he/she is appointed by the Prosecutor General or to meet the criterion of education pursuant to the law of the institution where he/she is a member of;
- b) To have at least 4 years of experience in his/her profession;
- c) Not to be subject to disciplinary measure or no disciplinary process be instituted against him/her;
- ç) Not to be sentenced by a final criminal decision or no criminal proceedings be instituted against him/her;
- d) To have high ethical-moral qualities.

2. A citizen may be appointed as an agent at Judicial Police sections if he/she meets the following conditions:

- a) To meet the criterion of education pursuant to the law on police force where he/she participates;
- b) To have at least 2 years of experience in his/her profession;
- c) Not to be subject of disciplinary measure or no disciplinary process be instituted against him/her;
- ç) Not to be sentenced by a final decision or no criminal proceeding be instituted against him/her;
- d) To have high ethical-moral qualities.

### **Article 10/a**

#### **Appointment in the section**

1. The appointment in the Judicial Police sections shall be made on the basis of a competition procedure by the minister who has under his/her competence the police force where the eligible candidate participates or by the Prosecutor General, in case of jurists and specialists of different areas of expertise.
2. More detailed rules shall be established by a joint instruction of the Prosecutor General, the Minister of Interior and responsible ministers who have police forces under their own competence

## Article 11

### **~~Appointment, transfer and removal from the sections of the judicial police~~**

- ~~1. The Minister, who has the police force under his power, immediately after the setting of the organizational structure for each section of the judicial police, or the notice of vacancies in them, announces the competition to fill in these vacancies, in which can participate officers and agents of the judicial police that meet the conditions laid down in Article 9 of this law.~~
- ~~2. Within 30 days of the announcement of the competition, the police officer or agent interested to work in the sections of the judicial police, submits the respective application to the service or command he is part of, attaching the documentation that proves the fulfilment of the conditions of admission.~~
- ~~3. In any case, the application must have attached to it the candidate's personal data and the document certifying that he has exercised judicial police activities for a period of at least two years in the last five years of work.~~
- ~~4. In cases where the number of applications submitted is not sufficient to cover the vacancies advertised or to enable approval by the Prosecutor General, the ministers, who have the police force in their competence, send the latter, for approval and appointment a final list of candidates with no less than three candidates for every vacant position, selected by them between officers and agents who meet the criteria of admission to the sections of the judicial police.~~
- ~~5. The Minister, who has the police force in his competence, within 60 days from the announcement of the competition, makes a preliminary assessment of the nominations submitted and submits to the Prosecutor General a nominative ordering list of them according to the terms and their skills and needs of the police force.~~

~~The preliminary assessment of candidacies is done by a joint committee of the Ministry and the Prosecutor General. The composition of the committee and selection procedures are determined by joint decision of the Ministry and the General Prosecution Office.~~
- ~~6. The submitted list of candidates must have attached to it the application and personal documentation of the person concerned.~~
- ~~7. Within 30 days from the approval of the Prosecutor General and from the sending of the nominal list, the Minister, under whose competence is the police force that the candidate is a part of, appoints the candidate in the relevant section of the judicial police.~~
- ~~8. The jurists of the judicial police sections are appointed by the Prosecutor General.~~
- ~~9. The removal of officers and agents of the Judicial Police sections is made by the competent authority of the relevant police force based on the motivated request of the prosecutor who heads the section, after having informed the Prosecutor General.~~

~~10. Transfer, even if temporary, of the officers and agents of the Judicial Police sections is made on a reasoned request of the competent authority of the police force, after prior opinion and consent of the Prosecutor General or the prosecutor who has been delegated this right by him. The objection of the Prosecutor General must be motivated and cannot be done in cases of promotion in a new role or rank of the officers and agents of the Judicial Police.~~

~~11. The requirement of prior consent of the Prosecutor General regarding the promotion in role or rank, should be required up to two years from the date when the officer or agent of the judicial police is transferred or no longer exercises such functions.~~

### **Transfer and promotion of officers and agents of Judicial Police sections**

1. The competent body of the police force, at a prior ten day notice, shall inform the head of the prosecutor's office at the district court in cases when the Judicial Police officers under their subordination are promoted or transferred.
2. If the transfer of the Judicial Police officer may affect the progress of preliminary investigation of a complex case, the transfer shall be adjourned/suspended until the termination of investigation, upon the request of the Prosecutor General, based on the notification of the head of the respective prosecution office.
3. The transfer, even if temporary, of officers and agents of Judicial Police sections shall be made upon the substantiated request of the police force competent body, after obtaining the preliminary opinion and consent of the Prosecutor General. The objection of the Prosecutor General shall be well-grounded and cannot be made in cases of promotion on duty, level or rank of the Judicial Police officers and agents.

### **Article 11/a**

#### **Replacement**

1. The Judicial Police Officer shall have the duty to resign, if there are grounds of partiality, from the exercise of the function in a specific proceeding, according to the Criminal Procedure Code. The head of the prosecution office shall decide on the declaration of resignation, who, by the admission decision, shall replace him with another officer.
2. The prosecutor of the case shall claim the replacement of the Judicial Police officer if there are serious grounds related to the duty and in cases provided for in articles 16 and 17, the first paragraph, letters "a", "b", "c", "d" and "dh" of the Criminal Procedure Code.
3. The head of the prosecution office shall order the replacement of the Judicial Police officer ex officio or upon the request of the parties, in cases provided for in points 1 and 2 of this article and in cases when he ascertains unjustified delays of investigation, and approves the substantiated request of the Judicial Police officer for the replacement

### **Article 11/b**

#### **Release and discharge**

1. The Judicial Police officer/agent shall be released from the duty if:
  - a) He/she resigns

- b) Reaches the retirement age;
  - c) Becomes permanently incapable to carry out official duties due to health conditions;
  - ç) Is sentenced by a final court decision for the commission of a criminal offence.
2. The Judicial Police officer/agent shall be discharged from duty when:
- a) He/she is sentenced by a final court decision for the commission of a criminal offence;
  - b) A disciplinary measure of discharge from duty is taken against him/her.

## **Article 12**

### **Legal position and career of officers and agents of judicial police sections**

1. The legal-administrative position and career of officers and agents of judicial police sections, unless otherwise provided in this law, shall be governed by the respective legislation on the police where they are part of.
2. Officers and agents of judicial police sections, upon the request or approval of the head of the section, may be exempted from the use of uniform and in each case, they must be supplied with a numbered badge they carry with them and affixed on the uniform.
3. Officers and agents of judicial police sections cannot be assigned duties irrelevant to judicial police activities that are assigned or delegated by the competent prosecutor, except for emergent cases or for needs of training on which the head of the prosecutor's office to which the judicial police section operates is notified and has given his/her consent.

## **Article 12/a<sup>3</sup>**

### **~~Salary of the officers of the Judicial Police Sections~~**

- ~~1. The salary of the Judicial Police officer-jurist of the sections of district prosecutor's offices and of appellate prosecutor's offices shall be equal to 70 per cent of the salary of the district prosecutor.~~
- ~~2. The salary of the judicial police officer – jurist, of the section of the Serious Crimes Prosecution and the Prosecutor's Office of Appeal for Serious Crimes and the Office of the Prosecutor General is 20 percent higher than that provided for judicial police officer-jurist in point 1~~

### **Salary and benefits of Judicial Police officers appointed by the Prosecutor General**

1. The salary of the Judicial Police officer of the sections of district prosecution offices and of appellate prosecution offices shall be equal to 70 per cent of the salary of the district prosecutor. After 5 years in service at the Judicial Police section, for each year of seniority, this salary, up to 25 years of service, shall be added by 2 per cent per year.
2. Above this salary, for special working conditions, the salary of the Judicial Police officer of the section of the Prosecution Office for Serious Crimes and of the Appellate Prosecution Office for Serious Crimes and of the General Prosecution Office shall be increased by 20 per cent.
3. The Judicial Police officers appointed by the Prosecutor General may benefit bonuses to the designated level on grounds of professional merits, upon the proposal of the director and with the

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<sup>3</sup> This Article is previously amended by law no 9241, dated 10.06.2004

consent of the Prosecutor General. The criteria for the remuneration for special merits of the Judicial Police officers appointed by the Prosecutor General shall be established by an instruction of the Prosecutor General after having obtained the opinion of the Council of the Prosecution Office.

4. The Judicial Police officers appointed by the Prosecutor General shall benefit payable annual leave of 30 calendar days. As a rule, the annual leave shall be taken in August. The Judicial Police officer/agent charged with the implementation of urgent tasks in August shall take the annual leave during another period, benefitting five additional days. For needs of professional qualifications and specializations, the Judicial Police officer/agent shall be entitled to claim unpaid leave and preservation of the work position up to one year.

5. The Judicial Police officers appointed by the Prosecutor General shall benefit for difficulties at work a raise up to 20 per cent. The criteria for the determination of difficulties during the discharge of duty of the Judicial Police officer shall be approved by order of the Prosecutor General, upon the proposal of the Council of the Prosecution Office

## **CHAPTER III/1 TRAINING AND JOB PERFORMANCE EVALUATION**

### **Article 12/b**

#### **Continuous training of Judicial Police officers and agents**

1. The Judicial Police officers and agents shall be subject to continuous training by public educational institutions designated by law for the training.
2. The period of continuous training must comply with the programs of public educational programs intended for the training.
3. The participation in these training sessions shall be obligatory.
4. More detailed rules on the organization of training, drafting of training curricula, participation therein and training expenses shall be established in agreement with the Prosecutor General, the minister who has under his/her competence the police force and the head of the public educational institution.

### **Article 12/c**

#### **Evaluation of individual results**

1. Judicial Police officers and agents shall be subject to a periodic individual evaluation and an evaluation in cases of promotion.
2. Each year, the head of the district prosecution office shall submit a job performance evaluation of the judicial police officers and agents. The evaluations shall be: "Incapable", "Adequate", "Good", "Very good" and "Excellent".
3. The evaluation "Incapable" shall constitute a cause for initiation of the disciplinary procedure for the release from duty of the Judicial Police officer or agent.
4. The head of the prosecution office shall give an opinion on the results of the exercise of functions and in case of promotion to duty, level or rank of the Judicial Police officers and agents of sections or services.

5. Evaluation acts completed in application of this article shall become integral part of the personal file of the Judicial Police officer or agent.

6. Detailed rules on the way of the evaluation of individual job results of Judicial Police officers and agents shall be established by the Prosecutor General after obtaining the opinion of the Ministers who have the Judicial Police under their subordination

## **CHAPTER IV RESPONSIBILITY OF JUDICIAL POLICE OFFICERS AND AGENTS**

### **Article 13**

#### **Management and control**

1. The exercise of the judicial police activity by judicial police officers and agents shall be managed and controlled by the prosecutor according to the rules established by the Code of Criminal Procedure.
2. The directors and responsible police structures charged with the exercise of judicial police functions shall have the duty to accomplish and support the discharge of these functions and shall be held liable according to law for any obstacles in this respect.
3. As regards the investigation data and progress, the judicial police officers and agents shall be responsible and report only to the competent prosecutor.

### **Article 13/a**

#### **Scope of application of disciplinary proceeding rules**

The rules of this chapter shall prevail and apply to the Judicial Police employees notwithstanding other normative remedies in force, if the employee commits disciplinary violations according to this law, during the exercise of the Judicial Police function.

### **Article 14**

#### **Liability of Judicial Police officers and agents**

- ~~1. Unless a criminal offense, the actions and omissions in the exercise of duty by the officers and agents of the services and sections of the judicial police are disciplinary offences as follows:~~
  - ~~a) reporting of data on the investigation outside the prosecutor's office;~~
  - ~~b) hiding data or not notification to the court or prosecutor of the commission of a criminal offense, in compliance with the deadlines and manner provided in the Criminal Procedure Code;~~
  - ~~c) failure of, delayed performance or partial execution of a lawful order of the court or prosecutor, which relates to the functions of the judicial police;~~
  - ~~ç) Actions and omissions in violation of the provisions of the Criminal Procedure Code.~~
- ~~2. The disciplinary proceedings against the officer or judicial police agent accused of serious violations of discipline in the exercise of these functions, is initiated by the prosecutor of the prosecution, who heads the section of the judicial police of which the officer or agent is a member of or the centre of the judicial police service;~~

~~3. To initiate disciplinary proceedings, the competent prosecutor immediately notifies the Minister who has the police force in his competence and the head of the judicial police service or the head of the section or unit of the police force, where the officer and agent of the judicial police was a member of.~~

~~4. For other disciplinary violations, other than those indicated in paragraph 1 of this Article, the competent prosecutor immediately notifies the Minister who has the police force in his competence and the respective director of the judicial police service, of which the officer and agent of the judicial police is part of, who proceed according to the relevant legal provisions.~~

### **Disciplinary liability of Judicial Police officers and agents**

During the exercise of Judicial Police functions, the Judicial Police employee shall be subject to the disciplinary liability in cases and under the safeguards provided for in the present law.

#### **Article 14/a**

##### **Disciplinary violations**

1. Disciplinary violations of the Judicial Police employees shall be divided into:

- a) Mild;
- b) Serious;
- c) Very serious.

2. The following acts and behaviours shall be mild violations:

- a) Actions and omissions of the Judicial Police employees which cause delays of the investigation processes;
- b) Unjustified absence at work up to 3 days;
- c) Acts and other behaviours defying the position and image of the Judicial Police employee.

3. The following acts and behaviours shall be serious violations:

- a) Unjustified and repeated delay of actions of the Judicial Police employees during the exercise of functions provided by law;
- b) Abandonment of work or unjustified and continuous absence for more than 3 days;
- c) Repeated violation of the discipline at work and after the written warning notice given by the superior;
- ç) Failure to inform the prosecutor on the progress of investigation by the senior officer who has the duty to inform ex officio.

4. The following violations shall be very serious:

- a) Reporting of data on the investigation out of the prosecution office;
- b) Submission of data and acts related to the commission of a criminal offence beyond the time limits and procedures provided for in the Criminal Procedure Code;
- c) Failure of implementation, delayed implementation or partial execution of a lawful order of the court or of the prosecutor, related to the exercise of Judicial Police functions;
- ç) Commission of other actions and inactions in contravention to imperative or prohibitive provisions of the Criminal Procedure Code prejudicing the investigation of the case.

## Article 15

### Disciplinary proceeding

- ~~1. The officer or agent of the judicial police who is charged of serious violations of discipline in exercising the functions of the judicial police, is notified in writing of the reasons, facts and violated provisions which are being processed as a disciplinary measure, for his right to prepare a defence, as well as the date for the disciplinary hearing.~~
  - ~~2. The officer or agent of the judicial police, who is subject to disciplinary proceedings, within 10 days from the date of holding the disciplinary hearing, may present his defence in writing, documents, and request the calling and hearing of witnesses.~~
  - ~~3. The disciplinary hearing consists of a commission headed by a prosecutor of the prosecution at the court of first instance responsible for the area and two officers of the judicial police. The Commission members are appointed for a term of one year, respectively by the head of the prosecution attached to the competent court and the regional director of the police force a member of which is the officer or agent who is subject to disciplinary proceedings.~~
  - ~~4. The charge against the officer or agent of the judicial police is made by the prosecutor who has requested the disciplinary proceeding or a substitute designated by him~~
  - ~~5. The officer or agent who is subject to disciplinary proceedings has the right of defence with a defender selected among members of its police force or lawyers.~~
  - ~~6. The decision of the Commission is made at the conclusion of disciplinary proceedings, during which the prosecutor who has made the accusation and the accused person present their evidence. In case of different opinions, the committee decides by majority vote.~~
  - ~~7. The prosecutor or the person punished have the right to appeal in court against the decision of the disciplinary commission regarding disciplinary measures provided in letters "b" and "c" of paragraph 10 of this article,~~
  - ~~8. The Disciplinary Commission or the court during the adjudication of the case, may decide to suspend the accused officer and agent from the exercise of the functions of the judicial police.~~
  - ~~9. The final decision of disciplinary punishment and that of suspension from the exercise of judicial police functions is executed immediately by the competent authority of the police force of which the officer or agent is part of.~~
  - ~~10. Disciplinary measures against the guilty officer or agent of the judicial police, according to the gravity of the disciplinary offense, are as follows:
    - ~~a) reprimand;~~
    - ~~b) suspension of labour relations for a period of up to six months;~~
    - ~~c) dismissal.~~~~
  - ~~11. The officers and agents of the judicial police sections with disciplinary punishment are removed from the section of the judicial police, and for those of the judicial police services are applied legal provisions governing the activity of the police force they belong to.~~
1. The disciplinary proceeding shall start within 6 months from the detection of the violation but not any later than three years from the commission of the violation.
  2. The disciplinary proceeding against the Judicial police employees shall be instituted by the head of the prosecution office or the prosecutor who is competent for the case where the disciplinary violation

is committed or upon a written request addressed to him/her by any concerned body or person. If the proceeding is instituted upon the request of the concerned body or person, the request shall be notified to the Prosecutor General and the minister who has the police force under his/her competence.

3. The Judicial Police employee against whom a disciplinary proceeding has been instituted, shall be notified of the reasons, violated facts and provisions for which it is proceeded with a disciplinary measure as well as of the date of development of the disciplinary proceeding.

4. The Judicial Police employee against whom a disciplinary proceeding has been instituted, shall be entitled:

- a) To be clearly informed and in details of the facts, violations and sanctions that may be imposed;
- b) To formulate claims and requests;
- c) To be informed of the documents of the disciplinary proceeding and submit sufficient evidence;
- ç) To be provided the assistance of a lawyer or a colleague during the proceedings and to be heard in his/her presence;
- d) To claim the summoning and hearing of witnesses and to introduce other documents for his/her defence.

5. A disciplinary commission shall be established for the review of the disciplinary proceeding against the Judicial Police employee. The commission shall be chaired by a prosecutor of the competent prosecution office on the case where the disciplinary violation is committed and shall consist of an employee of the Judicial Police service and an employee of the Judicial Police section. The members of the commission shall be appointed for a one-year term by the head of the prosecution office, the head of the section and the head of the service, respectively. The respective directors shall also appoint the substitute member in case of failure of participation of the designated member in the commission.

6. Following the examination of facts and evidence, the commission, by majority of votes, shall decide to propose to the director of nomenclature, who shall accept or refuse the request for the imposition of the disciplinary measure in a justified manner. The decision of the director shall be final.

7. In the course of the administrative review of the commission's decision, the director may decide on the suspension of the exercise of Judicial Police functions of the prosecuted employee.

8. The decision on the suspension of the exercise of functions and the final decision of the taking of disciplinary measure shall be immediately executed by the respective director who has the prosecuted employee under his/her structural subordination.

9. More detailed rules on the activity of the disciplinary commission shall be established by a joint instruction of the Prosecutor General and the Minister of Interior after obtaining the opinion of the ministers who have the Judicial Police under their subordination

#### **Article 15/a**

##### **Disciplinary measures**

1. The disciplinary measures against the Judicial Police employee, imposed according to their importance and in proportion to the committed disciplinary violation, shall be as follows:

- a) Written reprimand;

- b) Warning notice;
  - c) Assignment to a lower position with a deadline from three months up to one year;
  - ç) Suspension from duty up to 6 months;
  - d) Discharge from duty.
2. For “mild” violations provided by article 14/a of this law, shall apply the disciplinary measure provided for in letters “a” and “b” of the point 1 of this article.
  3. For “serious” violations provided by article 14/a of this law, shall apply the disciplinary measure provided for in letter “c” of the point 1 of this article.
  4. For “very serious” violations provided by article 14/a of this law, shall apply the disciplinary measure provided for in letters “ç” and “d” of the point 1 of this article.
  5. If the Judicial Police employee is in the quality of the defendant, he/she shall be suspended from the exercise of duty until the court renders a final decision.
  6. The disciplinary measures provided for in this article shall be terminated when:
    - a) 1 year has elapsed from the date when the measure was taken, according to letters “a” and “b” of the point 1 of this article;
    - b) 3 years have elapsed from the date when the imposed measure has terminated according to letters “c”, and “ç” of the point 1 of this article.
  7. The served disciplinary measures shall be removed from the personal file.

#### **Article 15/b**

##### **Appeal**

The final decision on the disciplinary measure may be appealed to the court by the employee against whom the measure is taken or by the prosecutor who has claimed the initiation of the disciplinary proceeding.

### **CHAPTER V TRANSITIONAL AND FINAL PROVISIONS**

#### **Article 16**

##### **Reorganization of the judicial police**

1. Reorganization and functioning of the judicial police services and sections at the prosecutor’s offices shall be completed by December 2000 in accordance with the rules established by this law.
2. The directors of police forces and of other public institutions, who exercise judicial police powers, within 30 days from the entry into force of this law, shall submit to the Prosecutor General the list of names, the respective ~~role~~ level and rank of the officers running the judicial police services.

#### **Article 17**

##### **Implementing provisions**

The Prosecutor General, the Minister of Justice, the Minister of Public Order and the ministers who have under their competence police forces that exercise judicial police

functions, jointly or severally, shall issue orders and instructions in application of articles 5, 6, 7, 10, 11, 14 and 15 of this law, and in respect of the following issues:

- a) Exchange of information between the judicial police sections and services on issues related to the coordination of the fight and situation of criminality.
- b) Planning, coordination and organization of exercise, educational and training activities for judicial police officers and agents.
- c) Coordination and organization of the activities of judicial police sections and services for the implementation of procedural tasks by their officers and agents.

The Prosecutor General and the Minister of Interior, within 3 months from the entry into force of this law, shall be charged to issue the respective bylaws

### **Article 18** **Abrogation of acts**

The decree no.1188, dated 10.8.1995 "On judicial police" is hereby repealed.

### **Article 19** **Entry into force**

This law shall enter into force within 15 days after its publication in the Official Journal.

Proclaimed by decree no.2798, dated 20.11.2000 of the President of the Republic of Albania, Rexhep Meidani.