

# AZERBAIJAN

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## Law of the Republic of Azerbaijan on Courts and Judges

### Part I. Courts

#### Chapter I. Judicial power

##### Article 1. Establishment of the courts in the Republic of Azerbaijan

Courts of the Republic of Azerbaijan that are established according to the legislation of the Republic of Azerbaijan, are acting in the Republic of Azerbaijan. Subject to part VI Article 125 of the Constitution of the Republic of Azerbaijan, use of legal means not foreseen by law with the purpose of the courts' power alteration and establishment of extraordinary courts and foreign courts, or courts not foreseen by this Law is forbidden.

Activity and status of the judges of the Constitutional Court of the Republic of Azerbaijan (hereafter — Constitutional court) is determined by the Constitutional Court Law of the Republic of Azerbaijan.

##### Article 2. Legislation on courts and judges

Legislation of the Republic of Azerbaijan on courts and judges consists of the Constitution of the Republic of Azerbaijan, this Law, other legislation of the Republic of Azerbaijan and international treaties to which it is a party.

##### Article 3. Objectives of the courts

Activity of the courts of the Republic of Azerbaijan is aimed solely at the administration of justice and, in cases and order provided by legislation, at the enforcement of judicial supervision.

While administering justice, courts protect rights and freedoms of person and citizen, rights and lawful interests of all enterprises, establishments and organizations irrespective of the form of property, political parties, civil associations, other legal persons, from any encroachments and law violations, fulfil other objectives provided for in Constitution of the Republic of Azerbaijan and this Law.

Vesting of other objectives on courts is inadmissible.

##### Article 4. Consideration of cases in courts

In courts, cases shall be considered at the First Instance, Court of Appeal and Court of Cassation.

In cases and order provided by legislation of the Republic of Azerbaijan cases in the courts of the Republic of Azerbaijan are considered in panel or by sole judge: in the first instance courts — by one judge or panel consisting of three judges, or by jurors; in the Court of Appeal and Court of Cassation — by panel of three or more judges.

At the consideration of cases the courts shall be guided by the Constitution, acts and other legislative instruments of the Republic of Azerbaijan, and also by international treaties to which the Republic of Azerbaijan is a party.



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The minutes of trial shall be taken when the case is considered in court. Technical facilities may be used in order to keep the record of court proceedings, as well as, procedural measures carried out in the course of the judicial investigation during the trial.

#### **Article 5. Judgments of court**

Courts pass resolutions, verdicts, writs and decisions (hereafter judgments), on behalf of the Republic of Azerbaijan, on the cases that they consider.

All judgments of the cassation and appeal instances shall be published within one month upon the issue and disseminated by means of electronic carriers. Attached to these decisions shall be the quashed or altered decisions of the lower instance courts.

In the order provided by the legislation of the Republic of Azerbaijan, the effective court judgments shall be implemented in an obligatory, timely and precise manner by all natural and legal persons on the territory of the Republic of Azerbaijan.

Failure to fulfil judicial effective judgments entails liability provided by the legislation of the Republic of Azerbaijan.

#### **Article 6. Symbols of judicial power**

Symbols of judicial power in the Republic of Azerbaijan consist of State flag of the Republic of Azerbaijan, national emblem and official emblem of justice.

All judges of the Republic of Azerbaijan run sessions in mantle.

Subject to part V article 94 of the Constitution of the Republic of Azerbaijan, description of the official emblem of justice and judges' mantle is provided by Law of the Republic of Azerbaijan.

### **Chapter II. Basic provisions on administration of justice**

#### **Article 7. Equality of everyone before law and court**

As set down in Article 25 of the Constitution of the Republic of Azerbaijan, justice in the Republic of Azerbaijan is administered on the bases principle of equality of everyone before law and court, irrespective of race, nationality, religion, language, sex, origin, proprietary status, public rank, conscience, membership in political parties, trade unions or other civil organizations.

#### **Article 8. Administration of justice in compliance with the principle of ensuring independence of judges without any restrictions, and in a fact based, impartial, just and lawful manner**

Justice is administered in compliance with the principle of ensuring independence of judges without any restrictions, and in a fact based, impartial, just and lawful manner.

#### **Article 9. Inadmissibility of interference with court proceeding and disrespect to court**

Direct or indirect restricting, undue influencing, threatening or interfering with court proceedings or acting in disrespect of the court and explicit disobedience by any person for any reason is inadmissible and shall entail liability provided by the legislation of the Republic of Azerbaijan.

#### **Article 10. Guarantee of the rights to defense**

The rights and freedoms of the citizens of the Republic of Azerbaijan, foreign citizens living within its territory and stateless persons, as well as, lawful interests of legal persons provided by the Constitution of the Republic of Azerbaijan and other legislation shall be subject of judicial protection from all sorts of encroachments and violations at any stage of court proceedings. No one shall be deprived of the right to judicial protection.

Suspected and accused persons shall enjoy the right to defence by means provided by the legislation of the Republic of Azerbaijan, including the right to resort to the legal aid as of the time of detention, arrest and prosecution for commission of criminal offence.

As set down in part II Article 61 of Constitution of the Republic of Azerbaijan, the state shall provide legal aid free of charge at its own expense, in cases provided by legislation.

#### **Article 11. Presumption of Innocence**

The principle of presumption of innocence provided by Article 63 of Constitution of the Republic of Azerbaijan shall comply with in the courts of administration of justice.

### **Article 12. Publicity of court sessions**

According to part V Article 127 of the Constitution of the Republic of Azerbaijan, trials in all courts shall be carried in open sessions except the cases that are considered in close sessions.

Except the cases provided by legislation, trials in absentia shall not be allowed.

In all cases, judgments shall be pronounced publicly.

### **Article 13. Competition in court proceedings**

With the equality of arms being guaranteed, the court proceedings shall be carried out according to the principle of competition, subject to part VII Article 127 of Constitution of the Republic of Azerbaijan.

### **Article 14. Language of court proceedings**

Court proceeding shall be carried out in language specified in part X Article 127 of the Constitution of the Republic of Azerbaijan. The persons who do not know the language of court proceedings shall not be restricted in his/her right.

In cases provided by the legislation of the Republic of Azerbaijan, each person shall have one's right to avail oneself of translator/interpreter's services guaranteed.

### **Article 15. Jurisdiction of courts**

Diverting of cases from the appropriate jurisdiction of courts provided by the legislation of the Republic of Azerbaijan or undue withdrawal of the cases from the relevant authorized judge shall not be allowed.

### **Article 16. Restriction of the judge's participation in trial**

Shall the judge have tried the case at first, appeal or cassation instances; s/he will not be allowed to re-try the same case.

In cases provided by the legislation of the Republic of Azerbaijan, shall there be reasons raising suspicions as to the impartiality of a judge, s/he will have to withdraw or be removed from the case.

### **Article 17. Inadmissibility of non-procedural relationships in court proceeding**

Non-procedural relationships not provided by legislation between staff of the court and trial participants, or between the courts of first instance, appeal and cassation instances in connection with the consideration of the cases shall not be allowed.

### **Article 18. Sine qua non of administration of justice**

Courts of the Republic of Azerbaijan shall administer justice in the manner relevant to the high status of the judicial power, enabling to conform to all procedural requirements, and excluding influence on freedom of judges' will expression.

Violation of provisions related to administration of justice shall entail legal liability provided by law.

## **Chapter III. Judicial system of the Republic of Azerbaijan**

### **Article 19. Courts administering justice**

Justice in the Republic of Azerbaijan shall be administered by the following courts, which belong to the judicial system of the Republic of Azerbaijan:

- district (city) courts;
- Grave Crimes Court of the Republic of Azerbaijan (hereafter Grave Crimes Court);
- military courts;
- Grave Crimes Court of Nakhchivan Autonomous Republic;
- Military Grave Crimes Court of the Republic of Azerbaijan (further called- Military Grave Crimes Court);
- local economic courts;
- Economic Court of the Republic of Azerbaijan on Disputes Arising from International Treaties (hereafter Economic Court on Disputes, Arising from International Treaties)
- Supreme Court of Nakhchivan Autonomous Republic (hereafter NAR Supreme Court);

- Court of Appeals;
- Economical Court of the Republic of Azerbaijan (hereafter Economical Court);
- Supreme Court of the Republic of Azerbaijan (hereafter Supreme Court).

Other courts may be established within the framework of the Judicial System of the Republic of Azerbaijan in the order provided by legislation.

Each court of the Republic of Azerbaijan is an independent legal person and shall have a seal bearing the image of the State Emblem of the Republic of Azerbaijan.

#### **Chapter IV. District (city) courts**

##### **Article 20. District (city) court and its powers**

As a court of first instance, district (city) courts shall try civil, criminal, administrative and other case within their jurisdiction provided by the legislation.

District (city) court analyzes judicial statistics, studies and summarizes the data related to the level of arranging the judicial activity and judicial practice, and exercises other powers provided by the legislation of the Republic of Azerbaijan.

##### **Article 21. Organization of district (city) court**

District (city) court is established in districts, towns (except the towns of district subordination) and city districts of the Republic of Azerbaijan and their jurisdiction is extended to respective district, town or city districts of the Azerbaijan Republic.

Organization and location of district (city) court shall be determined according to clause 32 of article 109 of the Constitution of the Azerbaijan Republic with consideration of the proposal of the Judicial-Legal Council.

Only one district (city) court shall be established in one district (city).

##### **Article 22. Structure of the district (city) court**

District (city) court shall consist of the Chairman and judges. The position of the vice-chairman shall be established in the district (city) court composing of 6 and more judges.

Number of judges of district (city) court shall be determined according to paragraph 32 Article 109 of the Constitution of the Republic of Azerbaijan.

##### **Article 23. Power of the Chairman of district (city) court**

Chairman of district(city) court shall be entitled to :

- manage the organization court activity and operation of the court staff; ensures observance of labor and performance discipline in the court;
- preside in court sessions, distribute cases between judges according to the their workload;
- recruit, dismiss, reward and call to disciplinary liability the court staff;
- report to the Session of the Plenary Board of the Supreme Court and Presidium of the respective court of appeal instance about the administration of justice of the district (city) court;
- direct the work on studying and summarizing of the data related to the level of arranging the judicial activity and of the judicial practice, as well as, maintaining judicial statistics;
- arrange activity of the court in the area of reception of persons, consideration of suggestions, motions and complaints;
- exercise other powers vested in it by legislation of the Republic of Azerbaijan.

Shall there be only one judge appointed to district (city) court, s/he will exercise the powers of the Chairman of the court.

##### **Article 24. Substitution of the Chairman or judge of district (city) court**

Shall the Chairman of district (city) court fail to exercise his/her powers, the relevant executive body of the Republic of Azerbaijan (hereafter relevant executive body) will temporarily vest the powers of the Chairman in one of the judges of this court.

Shall the judge of the court with only one judge fail to exercise his/her powers, the relevant executive body\* will temporarily vest the powers in the one of the judges of other district (city) court.

## **Chapter V. Grave Crimes Court**

### **Article 25. Grave Crimes Court and its powers**

As a court of first instance, Grave Crimes Court shall try criminal cases within its jurisdiction provided by the legislation.

Grave Crimes Court, in order provided by the legislation of the Republic of Azerbaijan, decides on the extradition of criminals, analyzes judicial statistics, studies and summarizes the data related to the level of arranging the judicial activity and judicial practice, and exercises other powers provided by the legislation of the Republic of Azerbaijan.

### **Article 26. Organization of the Grave Crimes Court**

Grave Crimes Court is established in the city of Baku, the capital of the Republic of Azerbaijan, with its jurisdiction encompassing the territory of the Republic of Azerbaijan (except the Nakhchivan Autonomous Republic).

### **Article 27. Structure of the Grave Crimes Court**

Grave Crimes Court shall consist of Chairman, his/her deputy and judges.

In cases and order provided by the legislation, the jury panel may be set up in this court in order to try cases at the first instance.

Number of judges of the Grave Crimes Court shall be determined according to paragraph 32 Article 109 of the Constitution of the Republic of Azerbaijan.

### **Article 28. Powers of the Chairman of the Grave Crimes Court**

Chairman of the Grave Crimes Court shall be entitled to:

- manage the organization of the court activity and operation of the court staff; ensure observance of labor and performance discipline in the court;
- preside in court sessions, distribute cases between judges according to their workload;
- recruit, dismiss, reward and call to disciplinary liability the court staff;
- report to the Sessions of the Plenary Board of the Supreme Court and the Presidium of the respective court of appeal instance about the administration of justice of the Grave Crimes Court;
- direct the work on studying and summarizing of the data related to the level of arranging the judicial activity and of the judicial practice, as well as, maintaining judicial statistics;
- arrange activity of the court in the area of reception of persons, consideration of suggestions, motions and complaints;
- exercise other powers vested in it by legislation of the Republic of Azerbaijan.

### **Article 29. Powers of the Deputy Chairman of the Grave Crimes Court**

Deputy Chairman of the Grave Crimes Court shall be entitled to:

- preside at the court sessions; deals with issues specified by the Chairman of the Grave Crimes Court; subject to the instructions of the Chairman, exercise his/her powers; and substitute the Chairman in case of his/her absence or his/her failure to exercise powers.
- exercise other powers vested in it by legislation of the Republic of Azerbaijan.

### **Article 30. Substitution of the Deputy Chairman of the Grave Crimes Court**

Shall the Deputy Chairman of the Grave Crimes Court fail to exercise his/her powers, the relevant executive body\* will temporarily vest the his powers in one of the judges of this court.

## **Chapter V — I. Court on Grave Crimes of the Nakhchivan Autonomous Republic**

### **Article 30-1. Court on grave crimes of the Nakhchivan Autonomous Republic and its authorities**

Court on grave crimes of the Nakhchivan Autonomous Republic as a first instance court reviews criminal cases, assigned to its competence under the legislation.

Court on grave crimes of the Nakhchivan Autonomous Republic analyses court statistics, studies and summarizes the status of organization of court practices and activities, implements other functions assigned under the legislation of Nakhchivan Republic.

### **Article 30-2. Organization of court on grave crimes of the Nakhchivan Autonomous Republic**

Court on grave crimes of the Nakhchivan Autonomous Republic is organized in the capital of Nakhchivan Autonomous Republic - city of Nakhchivan, and its jurisdiction is applicable to entire territory of the Nakhchivan Autonomous Republic.

### **Article 30-3. Composition of the Court on grave crimes of the Nakhchivan Autonomous Republic**

Court on grave crimes of the Nakhchivan Autonomous Republic comprised of court chairman and judges.

In cases and in accordance with procedures stipulated under the legislation, for processing of grave crime cases at the first instance the jury can be organized within the court.

Number of judges in the Court on grave crimes of the Nakhchivan Autonomous Republic shall be determined in accordance with item 32, Article 109 of the Constitution of the Azerbaijan Republic.

### **Article 30-4. Authorities of the Chairman of Court on grave crimes of the Nakhchivan Autonomous Republic**

Chairman of the Court on grave crimes of the Nakhchivan Autonomous Republic:

- Controls the work organization in the court and operations of the court apparatus, provides the compliance with work and executive discipline in the court;
- Chairs court hearings, distributes cases between judges with consideration of the number and volume of cases;
- Makes decisions on recruitment and dismissal of court apparatus employees, their motivation and application of disciplinary actions against them;
- Informs the Plenary Session of the Supreme Court and Presidium of the Supreme Court of the Nakhchivan Autonomous Republic on status of administration of justice in the Nakhchivan Autonomous Republic;
- Manages the study and summary of the status of organization of Court activities, court practices, maintenance of court statistics;
- Organizes court operations on receiving of persons, review of proposals, applications and complaints;
- Performs other functions, assigned in accordance with legislation of the Azerbaijan Republic».

## **Chapter VI. Military courts**

### **Article 31. Military court and its power**

As a court of first instance, military court shall try criminal cases within its jurisdiction provided by the legislation.

Military court analyzes judicial statistics, studies and summarizes the data related to the level of arranging the judicial activity and judicial practice, and exercises other powers provided by the legislation of the Republic of Azerbaijan.

### **Article 32. Organization of military court**

Military court is organized with consideration of the number of military units in the Military Forces of the Azerbaijan Republic and other military detachments by administrative and territorial units of their location.

Organization of military courts, their location and territorial jurisdiction are determined in accordance with item 32, Article 109 of the Constitution of the Azerbaijan Republic with consideration of proposals of Court-Legal Council.

### **Article 33. Structure of military court**

Military Court shall consist of Chairman and judges. The position of vice-chairman shall be established at the military court composing of 6 and more judges.

Number of judges of the military court shall be determined according to paragraph 32 Article 109 of the Constitution of the Republic of Azerbaijan.

### **Article 34. Powers of the Chairman of military court**

Chairman of military court shall be entitled to:

- manage the organization of the court activity and operation of the court staff; ensure observance of labor and performance discipline in the court;
- preside in court sessions, distribute cases between judges according to the their workload;
- recruit, dismiss, reward and call to disciplinary liability the court staff;
- report to the Sessions of the Plenary Board of the Supreme Court and the Presidium of the respective court of appeal instance about the administration of justice of military court;
- direct the work on studying and summarizing of the data related to the level of arranging the judicial activity and of the judicial practice, as well as, maintaining judicial statistics;
- arrange activity of the court in the area of reception of persons, consideration of suggestions, motions and complaints;
- exercise other powers vested in it by legislation of the Republic of Azerbaijan.

If only one judge is appointed to military court s/he shall fulfil commissions of Chairman of this court.

### **Article 35. Substitution of Chairman or judge of military court**

Shall the Chairman of military court fail to exercise his/her powers, the relevant executive body\* of the Republic of Azerbaijan (hereafter relevant executive body) will temporarily vest the powers of the Chairman in one of the judges of this court.

Shall the judge of the military court with only one judge fail to exercise his/her powers, the relevant executive body will temporarily vest the powers in the one of the judges of other military court.

## **Chapter VII. Military Grave Crimes Court**

### **Article 36. Military Grave Crimes Court and its powers**

As a court of first instance, Military Grave Crimes Court shall try criminal cases within its jurisdiction provided by the legislation.

Military Grave Crimes Court, in order provided by the legislation of the Republic of Azerbaijan, decides on the extradition of criminals, analyzes judicial statistics, studies and summarizes the data related to the level of arranging the judicial activity and judicial practice, and exercises other powers provided by the legislation of the Republic of Azerbaijan.

### **Article 37. Organization of the Military Grave Crimes Court**

Military Grave Crimes Court is established in the city of Baku, the capital of the Republic of Azerbaijan. Its jurisdiction covers all military units of garrisons of the Armed Forces of the Republic of Azerbaijan (the powers of the Military Grave Crimes Court on the territory of the NAR shall be exercised by the respective military court).

### **Article 38. Structure of Military Grave Crimes Court**

Military Court shall consist of Chairman and judges.

Number of judges of the military court shall be determined according to paragraph 32 Article 109 of the Constitution of the Republic of Azerbaijan.

### **Article 39. Powers of the Chairman of military court**

Chairman of military court shall be entitled to:

- manage the organization of the court activity and operation of the court staff; ensure observance of labor and performance discipline in the court;
- preside in court sessions, distribute cases between judges according to the their workload;
- recruit, dismiss, reward and call to disciplinary liability the court staff;
- report to the Sessions of the Plenary Board of the Supreme Court the Presidium of the respective court of appeal instance about the administration of justice of military court;
- direct the work on studying and summarizing of the data related to the level of arranging the judicial activity and of the judicial practice, as well as, maintaining judicial statistics;
- arrange activity of the court in the area of reception of persons, consideration of suggestions, motions and complaints;
- exercise other powers vested in it by legislation of the Republic of Azerbaijan.

If only one judge is appointed to military court s/he shall fulfil commissions of Chairman of this court.

#### **Article 40. Powers of the Deputy Chairman of the Military Grave Crimes Court**

Deputy Chairman of the Military Grave Crimes Court shall be entitled to:

- preside at the court sessions; deals with issues specified by the Chairman of the Military Grave Crimes Court; subject to the instructions of the Chairman, exercise his/her powers; and substitute the Chairman in case of his/her absence or his/her failure to exercise powers.
- exercise other powers vested in it by legislation of the Republic of Azerbaijan.

#### **Article 41. Substitution of the Deputy Chairman of the Military Grave Crimes Court**

Shall the Deputy Chairman of the Military Grave Crimes Court fail to exercise his/her powers, the relevant executive body will temporarily vest the his powers in one of the judges of this court.

### **Chapter VIII. Local economic courts**

#### **Article 42. Local economic court and its powers**

As a court of first instance, local economic court shall try cases on economic disputes within their jurisdiction provided by the legislation.

Local economic court analyzes judicial statistics, studies and summarizes the data related to the level of arranging the judicial activity and judicial practice, and exercises other powers provided by the legislation of the Republic of Azerbaijan.

#### **Article 43. Organization of local economic court**

Local economic court is established in administratively divided territorial areas or in free trade zones of the Republic of Azerbaijan.

Organization, location and territorial jurisdiction of local economic court shall be determined according to clause 32 of Article 109 of the Constitution of the Republic of Azerbaijan with consideration of proposal of the Judicial-Legal Council.

#### **Article 44. Structure of local economic court**

Local economic court shall consist of the Chairman and judges. The position of the vice-chairman shall be established at the local economic court composing of 6 and more judges.

Number of judges of local economic court shall be determined according to paragraph 32 Article 109 of the Constitution of the Republic of Azerbaijan.

#### **Article 45. Power of the Chairman of local economic court**

Chairman of local economic court shall be entitled to:

- manage the organization of the court activity and operation of the court staff; ensure observance of labor and performance discipline in the court;
- preside in court sessions, distribute cases between judges according to the their workload;



- recruit, dismiss, reward and call to disciplinary liability the court staff;
- report to the Sessions of the Plenary Board of the Supreme Court and the Presidium of the respective court of appeal instance about the administration of justice of local economic court;
- direct the work on studying and summarizing of the data related to the level of arranging the judicial activity and of the judicial practice, as well as, maintaining judicial statistics;
- arrange activity of the court in the area of reception of persons, consideration of suggestions, motions and complaints;
- exercise other powers vested in it by legislation of the Republic of Azerbaijan.

Shall there be only one judge appointed to local economic court, s/he will exercise the powers of the Chairman of the court.

**Article 46. Substitution of the Chairman or judge of local economic court**

Shall the Chairman of local economic court fail to exercise his/her powers, the relevant executive body will temporarily vest the powers of the Chairman in one of the judges of this court.

Shall the judge of the court with only one judge fail to exercise his/her powers, the relevant executive body will temporarily vest the powers in the one of the judges of other local economic court.

**Chapter IX. Economic Court on Disputes Arising from International Treaties**

**Article 47. Economic Court on Disputes Arising from International Treaties and its power**

As a court of first instance, Economic Court on Disputes Arising from International Treaties shall try cases on economic disputes within their jurisdiction provided by the legislation.

Economic Court on Disputes Arising from International Treaties analyzes judicial statistics, studies and summarizes the data related to the level of arranging the judicial activity and judicial practice, and exercises other powers provided by the legislation of the Republic of Azerbaijan.

**Article 48. Organization of the Economic Court on Disputes Arising from International Treaties**

Economic Court on Disputes Arising from International Treaties shall be established in the city of Baku, the capital of the Republic of Azerbaijan. Its jurisdiction shall encompass entire territory of the Republic of Azerbaijan.

**Article 49. Structure of the Economic Court on Disputes Arising from International Treaties**

Economic Court on Disputes Arising from International Treaties shall consist of the Chairman and judges.

Number of judges of district (city) court shall be determined according to paragraph 32 Article 109 of the Constitution of the Republic of Azerbaijan.

**Article 50. Power of the Chairman of the Economic Court on Disputes Arising from International Treaties**

Chairman of the Economic Court on Disputes Arising from International Treaties shall be entitled to :

- manage the organization of the court activity and operation of the court staff; ensure observance of labor and performance discipline in the court;
- preside in court sessions, distribute cases between judges according to the their workload;
- recruit, dismiss, reward and call to disciplinary liability the court staff;
- report to the Sessions of the Plenary Board of the Supreme Court and Plenary Board Session of the Economic Court about the administration of justice of the Economic Court on Disputes Arising from International Treaties;
- direct the work on studying and summarizing of the data related to the level of arranging the judicial activity and of the judicial practice, as well as, maintaining judicial statistics;
- arrange activity of the court in the area of reception of persons, consideration of suggestions, motions and complaints;
- exercise other powers vested in it by legislation of the Republic of Azerbaijan.

**Article 51. Substitution of the Chairman or judge of the Economic Court on Disputes Arising from International Treaties**

Shall the Chairman of the Economic Court on Disputes Arising from International Treaties fail to exercise his/her powers, the relevant executive body will temporarily vest the powers of the Chairman in one of the judges of this court.

**Chapter X. Supreme Court of the Nakhchivan Autonomous Republic**

**Article 52. Supreme Court of the Nakhchivan Autonomous Republic**

NAR Supreme Court is a supreme judicial body of the Nakhchivan Autonomous Republic which administers justice and supervises activity of NAR general courts in the order provided by legislation.

NAR Supreme Court is a court of appeal instance as per cases, related by the legislation to its competence.

NAR Supreme Court is established in the city of Nakhchivan, capital of the Nakhchivan Autonomous Republic and its jurisdiction encompasses entire territory of the Nakhchivan Autonomous Republic.

**Article 53. Structure of the Supreme Court of the Nakhchivan Autonomous Republic**

Supreme Court of Nakhchivan Autonomous Republic comprised of Presidium, Board on Civil Cases, Board on Economic Disputes, Board on Criminal Cases and Administrative Violations, and Board on Military Courts.

Panels of judges shall be established in the Boards of the NAR Supreme Court in order to try cases.

NAR Supreme Court shall consist of the Chairman of the court, his/her deputy, Chairmen of the Boards and judges of the chambers.

In cases and order provided by legislation, the jury panel may be set up in the NAR Supreme Court in order to try serious crimes cases at the first instance.

Number of judges of the Grave Crimes Court shall be determined according to paragraph 32 Article 109 of the Constitution of the Republic of Azerbaijan.

**Article 54. Structure and powers of the Plenary Board of the Supreme Court of the Nakhchivan Autonomous Republic**

Plenary Board of the NAR Supreme Court shall consist of the Chairman of the Court, his/her deputy and Chairmen of the chambers.

Members of the Plenary Board of the Supreme Court of the Nakhchivan Autonomous Republic shall enjoy equal rights within their competence.

Plenary Board of the NAR Supreme Court shall be entitled to:

- form panels from the judges of the NAR Supreme Court and assign judges to different chambers;
- approve Charter and structure of the Consultative Researching Council under the NAR Supreme Court upon the advice of the Chairman of the NAR Supreme Court;
- address motion regarding compliance of the legislation and other instruments with the Constitution and acts of the Republic of Azerbaijan to the Supreme Court to have it presented before the Constitutional Court of the Republic of Azerbaijan, in order provided by the legislation;
- hear information reported by the Chairman of the NAR Supreme Court, his/her deputy, Chairmen of the Boards and Chairmen of the first instance courts, related to the territorial jurisdiction of the NAR Supreme Court on the subject of judicial practice of applying the legislation of the Republic of Azerbaijan and the level of administration of justice in the Nakhchivan Autonomous Republic;
- review summaries of judicial practice and analyses of judicial statistics;
- render systematic assistance to the first instance courts, related to the territorial jurisdiction of the NAR Supreme Court to secure proper application of legislation by district (city) courts of the Nakhchivan Autonomous Republic;
- exercise other powers vested in it by legislation of the Republic of Azerbaijan.

**Article 55. Rules of procedure of the Plenary Board of the Supreme Court of the Nakhchivan Autonomous Republic**

Sessions of the Plenary Board of the NAR Supreme Court shall be held at least once in three months. Chairman of the NAR Supreme Court shall preside at the Sessions Plenary Board.

Prosecutor of the Nakhchivan Autonomous Republic, head of respective executive authority of the NAR and other persons may be invited to Sessions of the Plenary Board of the Court.

Members of the Plenary Board shall be informed about the time and agenda of the Plenary Session no later than 10 days before the session. The drafts of the decisions and other materials shall be presented to them.

Session of the Plenary Board shall be considered effectual if there are at least three members of the Board are present.

Decisions of the Plenary Board shall be passed by majority of votes of those Board members participating in the open voting.

The person presiding at the Plenary Board of the Court shall participate in voting along with other judges and vote in the last turn.

Decisions of the Plenary Board and minutes of the Session shall be signed by the person presiding in that session.

Apparatus of the NAR Supreme Court shall arrange the Sessions of the Plenary Board, keep the record of the minutes and take other necessary measures to secure the implementation of the decisions of the Plenary Board.

**Article 56. Powers of the Boards of the Supreme Court of the Nakhchivan Autonomous Republic**

Boards of the Supreme Court of Nakhchivan Autonomous Republic as appeal instance courts review cases on appeal complaints and appeal petitions on decisions on cases, reviewed by first instance courts, under the territorial jurisdiction of the Supreme Court of Nakhichevan Autonomy Republic.

Boards of the NAR Supreme Court shall take measures to secure proper application of the legislation of the Republic of Azerbaijan, analyzes judicial statistics, studies and summarizes judicial practice, render systematic assistance to the first instance courts, related to the territorial jurisdiction of the NAR Supreme Court to secure proper application of legislation by district (city) courts of the Nakhchivan Autonomous Republic and exercise other powers vested in it by legislation of the Republic of Azerbaijan.

**Article 57. Powers of the Chairman of the Supreme Court of the Nakhchivan Autonomous Republic**

Chairman of the NAR Supreme Court shall be entitled to:

- manage the organization of the NAR Supreme Court and operation of the Court Apparatus; ensure observance of labor and performance discipline in the court;
- preside in court sessions, distribute cases between judges according to the their workload;
- propose the composition of the court Boards to the Plenary Board of the NAR Supreme Court;
- recruit, dismiss, reward and call to disciplinary liability the Apparatus of the NAR Supreme Court;
- fix the structure, staff chart and financial plan of the Apparatus of the NAR Supreme Court;
- proposes the Judicial-Legal Council to reward judges of the NAR Supreme Court and the first instance courts, related to its territorial jurisdiction;
- apply to the Judicial-Legal Council for institution of disciplinary proceedings regarding judges of the NAR Supreme Court and first instance courts, related to its territorial jurisdiction, in cases and order provided for in the legislation of the Republic of Azerbaijan;
- represent the NAR Supreme Court;
- summon the Sessions of the Plenary Sessions of the NAR Supreme Court, fix the time and agenda, preside at these sessions, sign the decisions and minutes of the Plenary Board;

- participate at the Session of the Plenary Board of the Supreme Court of the Republic of Azerbaijan, report as to the level of administration of justice in the first instance courts, related to its territorial jurisdiction and the NAR Supreme Court;
- promote improvement of professional skills of the NAR Supreme Court judges and Apparatus staff members;
- render methodical assistance to courts to secure their proper application of legislation;
- arrange analyzing judicial statistics and studying and summarizing of the judicial practice;
- obtain on demand cases from the first instance courts, related to its territorial jurisdiction in order to study and summarize of the judicial practice;
- arrange activity of the court in the area of reception of persons, consideration of suggestions, motions and complaints;
- exercise other powers vested in it by legislation of the Republic of Azerbaijan.

**Article 58. Powers of the Deputy Chairman of the Supreme Court of the Nakhchivan Autonomous Republic**

Deputy Chairman of the NAR Supreme Court shall:

- preside at the court sessions; deals with issues specified by the Chairman of the NAR Supreme Court; subject to the instructions of the Chairman, exercise his/her powers; and substitute the Chairman in case of his/her absence or his/her failure to exercise powers;
- exercise other powers vested in it by legislation of the Republic of Azerbaijan.

**Article 59. Powers of the Chairmen of the Boards of the Supreme Court of the Nakhchivan Autonomous Republic**

Chairman of the Boards of the NAR Supreme Court shall be entitled to:

- preside at the sessions of the relevant Boards of the Court; direct the arrangement of the activity of the Court Chamber;
- arrange analyzing judicial statistics and studying and summarizing of the judicial practice;
- obtain on demand cases from the first instance courts, related to the territorial jurisdiction of the NAR Supreme Court in order to study and summarize of the judicial practice;
- arrange activity of the court in the area of reception of persons, consideration of suggestions, motions and complaints;
- exercise other powers vested in it by legislation of the Republic of Azerbaijan.

**Article 60. Substitution of the Deputy Chairman of the Supreme Court of the Nakhchivan Autonomous Republic and Chairmen of the Chambers**

Shall the Deputy Chairman of the NAR Supreme Court fail to exercise his/her powers or in case of her/his commission expiration, the Chairman of the NAR Supreme Court shall temporarily vest his/her powers in on of the Chairmen of the Court Chambers.

Shall the Chairman of the Court Board fail to exercise his/her powers in case of her/his commission expiration, the Chairman of the NAR Supreme Court shall temporarily vest his/her powers in on of the judges of the Court Chambers.

**Chapter XI. Court of Appeal**

**Article 61. Appeal Court**

In accordance with part 1, Article 132 of the Constitution of the Azerbaijan Republic the appeal court is a higher instance court on civil, economic disputes, criminal cases and administrative violations.

Organization of appeal court, location and territorial jurisdiction are determined in accordance with item 32, Article 109 of Constitution of the Azerbaijan Republic with consideration of proposals of the Court and Legal Council.

### **Article 62. Structure of the Court of Appeal**

Court of Appeal consists of the Plenary Board, Board on Civil Cases, Board on Economic Disputes, Board on Criminal and Administrative Offences Cases and Board on Cases of Military Courts. Panels of judges shall be established at the Boards of the Court of Appeal in order to try cases.

Court of Appeal shall consist of the Chairman of the court, his/her deputy, Chairmen of the Boards and judges of the chambers.

Number of judges of the Court of Appeal shall be determined according to paragraph 32 Article 109 of the Constitution of the Republic of Azerbaijan.

### **Article 63. Structure and powers of the Plenary Board of the Court of Appeal**

Plenary Board of the Court of Appeal shall consist of the Chairman of the Court, his/her deputy and Chairmen of the chambers.

Members of the Plenary Board of the Court of Appeal shall enjoy equal rights within their competence.

Plenary Board of the Court of Appeal shall be entitled to:

- form panels from the judges of the Court of Appeal;
- address motion regarding compliance of the legislation and other instruments with the Constitution and acts of the Republic of Azerbaijan to the Supreme Court to have it presented before the Constitutional Court of the Republic of Azerbaijan, in order provided by the legislation;
- hear information reported by the Chairmen of the Boards of the Court of Appeal and the Chairmen of the first instance courts, related to the territorial jurisdiction of this court of appeal on the subject of judicial practice of applying the legislation of the Republic of Azerbaijan;
- review summaries of judicial practice and analyses of judicial statistics on cases tried by the Court of Appeal;
- render systematic assistance to the first instance courts, related to the territorial jurisdiction of this court of appeal, military courts to secure proper application of legislation;
- exercise other powers vested in it by legislation of the Republic of Azerbaijan.

### **Article 64. Rules of procedure of the Plenary Board of the Court of Appeal**

Sessions of the Plenary Board of the Court of Appeal shall be held at least once in three months. Chairman of the Court of Appeal shall preside at the Sessions Plenary Board.

To the meeting of the Presidium of appeal court may be invited the representatives of the Prosecutor office of the Azerbaijan Republic and relevant executive authority, as well as other persons.

Members of the Plenary Board shall be informed about the time and agenda of the Plenary Session no later than 10 days before the session. The drafts of the decisions and other materials shall be presented to them.

Session of the Plenary Board shall be considered effectual if there are at least three members of the Board are present.

Decisions of the Plenary Board shall be passed by majority of votes of those Board members participating in the open voting.

The person presiding at the Plenary Board of the Court shall participate in voting along with other judges and vote in the last turn.

Decisions of the Plenary Board and minutes of the Session shall be signed by the person presiding in that session.

Apparatus of the Court of Appeal shall arrange the Sessions of the Plenary Board, keep the record of the minutes and take other necessary measures to secure the implementation of the decisions of the Plenary Board.

### **Article 65. Powers of the Boards of the Supreme Court of the Court of Appeal**

Boards of the Court of Appeal:

- as the court of appeal try cases according to the appeal request or protest against the judgments under the cases, previously considered by the first instance courts related to the territorial jurisdiction of such court of appeal.

Board of the Court analyzes judicial statistics, studies and summarizes judicial practice, render regular assistance to secure proper application of legislation by the first instance courts related to the territorial jurisdiction of such court of appeal and exercise other powers vested in it by legislation of the Republic of Azerbaijan.

### **Article 66. Powers of the Chairman of the Court of Appeal**

Chairman of the Court of Appeal shall be entitled to:

- manage the organization of the Court of Appeal and operation of the Court Secretariat; ensure observance of labor and performance discipline in the court;
- preside in court sessions, distribute cases between judges according to the their workload;
- propose the composition of the court Boards to the Plenary Board of the Court of Appeal;
- recruit, dismiss, reward and call to disciplinary liability the Secretariat of the Court of Appeal;
- fix the structure, staff chart and financial plan of employees of the Secretariat of the Court of Appeal;
- proposes the Judicial-Legal Council to reward judges of the Court of Appeal and first instance courts, related to the territorial jurisdiction of such court of appeal, military courts, as well as, First Instance Board on Serious Crimes of the NAR Supreme Court;
- apply to the Judicial-Legal Council for institution of disciplinary proceedings regarding judges of the first instance courts, related to the territorial jurisdiction of such court of appeal and judges of the Court of Appeal in cases and order provided in the legislation of the Republic of Azerbaijan;
- represent the Court of Appeal;
- summon the Sessions of the Plenary Board of the Court of Appeal, fix the time and agenda, preside at these sessions, sign the decisions and minutes of the Plenary Board;
- participate at the Session of the Plenary Board of the Supreme Court of the Republic of Azerbaijan, report as to the level of administration of justice in the first instance courts related to the territorial jurisdiction of such court of appeal and the Court of Appeal;
- promote improvement of professional skills of the Court of Appeal judges and Apparatus staff members;
- render methodical assistance to courts to secure their proper application of legislation;
- arrange analyzing judicial statistics and studying and summarizing of the judicial practice;
- obtain on demand cases from district (city) courts in order to study and summarize of the judicial practice;
- arrange activity of the court in the area of reception of persons, consideration of suggestions, motions and complaints;
- exercise other powers vested in it by legislation of the Republic of Azerbaijan.

### **Article 67. Powers of the Deputy Chairman of the Court of Appeal**

Deputy Chairman of the Court of Appeal shall:

- preside at the court sessions; deals with issues specified by the Chairman of the Court of Appeal; subject to the instructions of the Chairman, exercise his/her powers; and substitute the Chairman in case of his/her absence or his/her failure to exercise powers;
- exercise other powers vested in it by legislation of the Republic of Azerbaijan.

### **Article 68. Powers of the Chairmen of the Boards of the Court of Appeal**

Chairman of the Board of the Court of Appeal shall be entitled to:

- preside at the sessions of the relevant Boards of the Court; direct the arrangement of the activity of the Court Chamber;
- arrange analyzing judicial statistics and studying and summarizing of the judicial practice;
- obtain on demand cases from district (city) courts in order to study and summarize of the judicial practice;
- arrange activity of the court in the area of reception of persons, consideration of suggestions, motions and complaints;
- exercise other powers vested in it by legislation of the Republic of Azerbaijan.

### **Article 69. Substitution of the Deputy Chairman of the Court of Appeal and Chairmen of the Chambers**

Shall the Deputy Chairman of the Court of Appeal fail to exercise his/her powers, the Chairman of the Court of Appeal shall temporarily vest his/her powers in one of the Chairmen of the Court Chambers.

Shall the Chairman of the Court Board fail to exercise his/her powers, the Chairman of the Court of Appeal shall temporarily vest his/her powers in one of the judges of the Court Chambers.

## **Chapter XII. Economic Court**

### **Article 70. Economic Court**

Subject to part I Article 132 of the Constitution of the Republic of Azerbaijan, Economic Court is high instance court on economic dispute cases.

As an appeal instance court, Economic Court supervises the activity local economic courts and Economic Court of the Republic of Azerbaijan on Disputes Arising from International Treaties in order provided by legislation.

Economic Court tries economic disputes cases previously considered by local economic courts and the Economic Court on Disputes Arising from International Treaties according to the appeal request or protest against the judgments of the inferior courts.

Economic Court is established in the city of Baku and its jurisdiction encompasses entire territory of the Republic of Azerbaijan.

### **Article 71. Structure of the Economic Court**

Economic Court shall consist of the Chairman of the court, his/her deputy and judges.

Economic Court shall consist of the Plenary Board and panels of judges formed to try cases.

Number of judges of the Economic Court shall be determined according to paragraph 32 Article 109 of the Constitution of the Republic of Azerbaijan.

### **Article 72. Structure and powers of the Plenary Board of the Economic Court**

Plenary Board of the Economic Court shall consist of the Chairman of the Court, his/her deputy and Chairmen of the panels.

Members of the Plenary Board of the Economic Court shall enjoy equal rights within their competence.

Plenary Board of the Economic Court shall be entitled to:

- hear information reported by the Chairmen the Economic Court, his/her deputy, Chairmen of local economic courts and the Chairman of the Economic Court on Disputes Arising from International Treaties on the level of administration of justice in the economic courts of the Republic of Azerbaijan; review summaries of judicial practice and analyses of judicial statistics on cases; hear reports of the mentioned courts on the subject of judicial practice of applying legislation;
- address motion regarding compliance of the legislation and other instruments with the Constitution and acts of the Republic of Azerbaijan to the Supreme Court to have it presented before the Constitutional Court of the Republic of Azerbaijan, in order provided by the legislation;

- approve panels of judges from the judges of the Economic Court;
- render systematic assistance to secure proper application of legislation by local economic courts and the Economic Court on Disputes Arising from International Treaties;
- exercise other powers vested in it by legislation of the Republic of Azerbaijan.

### **Article 73. Rules of procedure of the Plenary Board of the Economic Court**

Sessions of the Plenary Board of the Economic Court shall be held at least once in three months. Chairman of the Economic Court shall preside at the Sessions Plenary Board.

Prosecutor General of the Republic of Azerbaijan, head of the relevant executive body\* and other persons may be invited to Sessions of the Plenary Board of the Court.

Members of the Plenary Board shall be informed about the time and agenda of the Plenary Session no later than 10 days before the session. The drafts of the decisions and other materials shall be presented to them.

Session of the Plenary Board shall be considered effectual if there are at least two thirds (2/3) of members of the Board are present.

Decisions of the Plenary Board shall be passed by majority of votes of those Board members participating in the open voting.

The person presiding at the Plenary Board of the Court shall participate in voting along with other judges and vote in the last turn.

Plenary Board passes decisions on issues that it considers. Decisions of the Plenary Board and minutes of the Session shall be signed by the person presiding in that session.

Apparatus of the Economic Court shall arrange the Sessions of the Plenary Board, keep the record of the minutes and take other necessary measures to secure the implementation of the decisions of the Plenary Board.

### **Article 74. Powers of the Chairman of the Economic Court**

Chairman of the Economic Court shall be entitled to:

- manage the organization of the Economic Court and operation of the Court Apparatus; ensure observance of labor and performance discipline in the court;
- preside in court sessions, distribute cases between judges according to the their workload;
- propose the composition of the court panels to the Plenary Board of the Economic Court;
- recruit, dismiss, reward and call to disciplinary liability the Apparatus of the Economic Court;
- fix the structure, staff chart and financial plan of the Apparatus of the Economic Court;
- proposes the Judicial-Legal Council to reward judges of the Economic Court, local economic courts and the Economic Court on Disputes Arising from International Treaties;
- apply to the Judicial-Legal Council for institution of disciplinary proceedings regarding judges of the Economic Court, local economic courts and the Economic Court on Disputes Arising from International Treaties, in cases and order provided in the legislation of the Republic of Azerbaijan;
- represent the Economic Court;
- summon the Sessions of the Plenary Sessions of the Economic Court, fix the time and agenda, preside at these sessions, sign the decisions and minutes of the Plenary Board;
- informs the Plenary Board of the Economic Court about the level of administration of justice in the Economic Court, local economic courts and the Economic Court on Disputes Arising from International Treaties;
- promote improvement of professional skills of the Economic Court judges and Apparatus staff members;
- render methodical assistance to courts to secure their proper application of legislation;
- arrange analyzing judicial statistics and studying and summarizing of the judicial practice;



- obtain on demand cases from local economic courts and the Economic Court on Disputes Arising from International Treaties in order to study and summarize of the judicial practice;
- arrange activity of the court in the area of reception of persons, consideration of suggestions, motions and complaints;
- exercise other powers vested in it by legislation of the Republic of Azerbaijan.

#### **Article 75. Powers of the Deputy Chairman of the Economic Court**

Deputy Chairman of the Economic Court shall:

- preside at the court sessions; deals with issues specified by the Chairman of the Economic Court; subject to the instructions of the Chairman, exercise his/her powers; and substitute the Chairman in case of his/her absence or his/her failure to exercise powers;
- exercise other powers vested in it by legislation of the Republic of Azerbaijan.

#### **Article 76. Substitution of the Deputy Chairman of the Economic Court**

Shall the Deputy Chairman of the Economic Court fail to exercise his/her powers, the Chairman of the Economic Court shall temporarily vest his/her powers in one of the judges of this court.

### **Chapter XIII. Supreme Court**

#### **Article 77. Supreme Court**

Subject to Article 131 of the Constitution of the Republic of Azerbaijan, the Supreme Court is the highest instance court on civil (including economic disputes), criminal, administrative offences cases and other cases previously tried by the general and specialized courts.

As a cassation instance (ultimate appeal) court, the Supreme Court administers justice in procedural order provided by legislation.

Supreme Court is established in the city of Baku, capital of the Republic of Azerbaijan, and its jurisdiction encompasses entire territory of the Republic of Azerbaijan.

#### **Article 78. Structure of the Supreme Court**

Supreme Court is composed of the Supreme Court Chairman, his/her deputy, Chairmen of the Boards and judges.

Supreme Court consists of the Plenary Board and Cassation Chambers.

Board on Civil Cases, Board on Economic Dispute Cases, Board on Criminal and Administrative Offences Cases and Board on Cases of Military Courts shall be established in the Supreme Court.

Number of judges of the Court of Appeal shall be determined according to paragraph 32 Article 109 of the Constitution of the Republic of Azerbaijan.

Consultative Researching Council shall function under the Supreme Court in order to draft proposals regarding proper application of legislation, improvement of legislation and other theoretical issues.

#### **Article 79. Structure and powers of the Plenary Board of the Supreme Court**

Plenary Board of the Supreme Court shall consist of the Chairman of the Court, his/her deputy, Chairmen of the Boards and judges.

Members of the Plenary Board of the Supreme Court shall enjoy equal rights within their competence.

Plenary Board of the Supreme Court shall be entitled to:

- hear information reported by the Chairmen of the courts on the subject of judicial practice of applying the legislation of the Republic of Azerbaijan as well as information reported by the Chairman of the Supreme Court and his/her deputy, Chairmen of the court of appeal, Chairman of the NAR Supreme Court, and of other general and specialized courts on the level of administration of justice, review summaries of judicial practice and analyses of judicial statistics on cases;
- form Boards of the Supreme Court upon advice of the Chairman of the Supreme Court and assign judges to different chambers;

- approve Charter and structure of the Consultative Researching Council under the Supreme Court upon the advice of the Chairman of the Supreme Court;
- present motions before the Constitutional Court subject to the Article 130 of the Constitution of the Republic of Azerbaijan;
- consider the motion of the Chairman of the Republic of Azerbaijan on withdrawal of judges of the Republic of Azerbaijan subject to the Article 128 of the Constitution of the Republic of Azerbaijan and present relevant opinion to the Chairman of the Republic of Azerbaijan within 30 days after the date of the motion;
- give interpretation of on the subject of judicial practice according to the Article 131 of the Constitution of the Republic of Azerbaijan;
- try optional cassation cases upon advice of the Chairman of the Supreme Court, protest of the Prosecutor General or complaint of the defence or cases on the subject of new circumstances or newly occurred circumstances related to violation of rights and freedoms in cases and order provided by the law;
- consider issues and pass decision to address Milli Majlis of the Republic of Azerbaijan with the legislative initiative subject to the Article 96 of the Constitution of the Republic of Azerbaijan;
- consider complaints lodged on decisions of the Judicial Legal Council in cases provided by the legislation;
- exercise other powers vested in it by legislation of the Republic of Azerbaijan.

#### **Article 80. Rules of procedure of the Plenary Board of the Supreme Court**

Sessions of the Plenary Board of the Supreme Court shall be held at least once in three months. Chairman of the Supreme Court shall preside at the Sessions Plenary Board.

Chairmen of the court of appeals, Chairman of the NAR Supreme Court, Prosecutor General of the Republic of Azerbaijan and head of the relevant executive body shall participate at Sessions of the Plenary Board of the Supreme Court.

Participation of the defence at the sessions of the Plenary Board of the Supreme Court during consideration of optional cassation cases or cases on the subject of new circumstances or newly occurred circumstances related to violation of rights and freedoms shall be provided. Other persons may be invited to participate at the sessions Plenary Board of the Supreme Court;

Members of the Plenary Board and those participating at the Session shall be informed about the time and agenda of the Plenary Board no later than 10 days before the session. The drafts of the decisions and other materials shall be presented to them.

Session of the Plenary Board shall be considered effectual if there are at least two thirds (2/3) of members of the Board are present.

Decisions of the Plenary Board shall be passed by majority of votes of those Board members participating in the open voting. Members of the Plenary Board may not be neutral in voting on the subject of court cases.

The person presiding at the Plenary Board of the Court shall participate in voting along with other judges and vote in the last turn.

Other persons taking part in the work of the Plenary Board of the Supreme Court and the Chairman of the Supreme Court shall not participate in voting on the subject of cases considered in connection with the advices presented to the Plenary Board on optional cassation cases on court judgments or cases with new circumstances. Plenary Board shall pass decisions on the issues considered. Decisions of the Plenary Board and minutes of the Session shall be signed by the person presiding in that session.

Apparatus of the Supreme Court shall arrange the Sessions of the Plenary Board, keep the record of the minutes and take other necessary measures to secure the implementation of the decisions of the Plenary Board.

Plenary Board may quash the court decisions on acquittal or decisions to terminate criminal prosecution on exculpatory bases or other decisions, on the ground that they aggravate the punishment for the convict, by two thirds (2/3) of the participants of the Session.

### **Article 81. Powers of the Boards of the Supreme Court**

Boards of the Supreme Court try following cases:

- from the court of appeals, on cassation appeals and cassation protests;
- from the Economic Court, on cassation appeals and cassation protests;
- from the NAR Supreme Court which has tried the cases as the court of appeal, on cassation appeals and cassation protests;
- from other general and specialized courts, on cassation appeals and cassation protests;
- by the cassation petition of the Chairman of the Supreme Court, in order provided by the legislation.

Board of the Supreme Court analyzes judicial statistics, studies and summarizes judicial practice, render systematic assistance to secure proper application of legislation by the court of the Republic of Azerbaijan and exercise other powers vested in it by legislation of the Republic of Azerbaijan.

### **Article 82. Rules of procedure of the Boards of the Supreme Court**

Supreme Court shall consider the cases within its jurisdiction in Chambers, in order and within the limits provided by the legislation of the Republic of Azerbaijan.

Judge panels shall be established within Board in order to consider the cases.

Chairmen of the Boards shall manage the work of the chambers. Chairmen of the Boards are ex officio Deputy Chairmen of the Supreme Court.

### **Article 83. Powers of the Chairman of the Supreme Court**

Chairman of the Supreme Court shall be entitled to:

- manage the organization of the Supreme Court and operation of the Court Secretariat; ensure observance of labor and performance discipline in the court;
- preside in court sessions, distribute cases between judges according to the their workload;
- propose the composition of the court Boards to the Plenary Board of the Supreme Court;
- recruit, dismiss, reward and call to disciplinary liability the Apparatus of the Supreme Court;
- fix the structure, staff chart and financial plan of the Apparatus of the Supreme Court;
- proposes the Judicial-Legal Council to reward judges of the Republic of Azerbaijan;
- apply to the Judicial-Legal Council for institution of disciplinary proceedings and termination of the office regarding judges of the courts of the Republic of Azerbaijan, in cases and order provided in the legislation of the Republic of Azerbaijan;
- obtain on demand cases from courts;
- lodge petition on addition cassation appeal from court judgments to the Plenary Board of the Supreme Court, in order and cases provided by the legislation;
- lodge petition on the ground of newly revealed circumstances to the Plenary Board of the Supreme Court, in order and cases provided by the legislation;
- represent the Supreme Court;
- summon the Sessions of the Plenary Board of the Supreme Court, fix the time and agenda, preside at these sessions, sign the decisions and minutes of the Plenary Board;
- participate at the Session of the Plenary Board of the Supreme Court of the Republic of Azerbaijan, report as to the level of administration of justice in general and specialized courts;
- promote improvement of professional skills of the Supreme Court judges and Apparatus staff members;
- arrange analyzing judicial statistics and studying and summarizing of the judicial practice;
- render methodical assistance to courts to secure their proper application of legislation;
- arrange activity of the court in the area of reception of persons, consideration of suggestions, motions and complaints;

- exercise other powers vested in it by legislation of the Republic of Azerbaijan.

#### **Article 84. Authorities of the Deputy Chairman of Supreme Court**

Deputy Chairman of Supreme Court:

- Chairs court hearings, resolves problems, identified by the Chairman of Supreme Court, by the assignment of chairman performs his various authorities, in the absence of chairman or his incapability to fulfill his responsibilities, replaces him;
- Performs other functions assigned under the legislation of the Azerbaijan Republic.

#### **Article 84-1. Authorities of the Chairman of Board of Supreme Court**

Chairman of the Board of Supreme Court:

- Chairs the meetings of the relevant court board, manages the work organization of the Board;
- Distributes cases and other obligations between the judges with consideration of the volume and number of cases;
- Organizes work on analysis of court statistics, review and summary of court practices;
- Requests case information from courts due to learning and summary of court practices;
- Informs the Plenary Session of the Supreme Court on the status of administration of justice in Boards;
- Provides methodic assistance to courts in correct application of legislative acts;
- Organizes the board activities on receiving of persons, review of proposals, applications and complaints;
- Implements other authorities stipulated under the legislation of the Azerbaijan Republic.

#### **Article 85. Replacement of the Chairman of Supreme Court and Board Chairmen**

In the event of incapability of the chairman of Supreme Court to perform his duties or end of the term in office, by the decision of the Chairman of Supreme Court implementation of his duties is assigned temporarily on one of the Board Chairmen of the Court.

In the event of incapability of the Chairman of Board of the Supreme Court to perform his duties or end of his term in office by the decision of the Chairman of the Supreme Court execution of his duties is assigned to one of the judges of the Board.

### **Chapter XIV. Organizational provision of the courts of the Republic of Azerbaijan**

#### **Article 86. Relevant executive body**

In order provided by the legislation of the Republic of Azerbaijan and with due respect to the independence of judges, relevant executive body shall be involved in enhancement of the professionalism of judges, except judges of the Supreme Court, the NAR Supreme Court and the courts of appeal; provide necessary conditions for activity of courts; provide courts with appropriate legislation; supply provide financing and logistics.

Relevant executive body shall take measures to maintain judicial statistics, execute court judgments, arrange clerical work, secure labor and social rights of judges, promote executive and work discipline in courts. Relevant executive body shall be entitled to examine the level of arrangements in the abovementioned areas in the first and appeal instance courts and also in case of failure of the Chairman and Chairman deputy of the first instance courts to perform their obligations or commission expiration to entrust temporarily one of the judges of this court to perform their obligations, and in case of the failure of the judge to fulfill his/her obligations to entrust temporarily one of the judges of another respective court with fulfillment of his/her obligations.

Relevant executive body of the Republic of Azerbaijan, shall arrange clerk service rules for the courts listed in paragraph 1 Article 19 of this Law.

Shall the reasons and grounds for calling to disciplinary liability, as specified by this Law, be present, the relevant executive body will apply to the Judicial-Legal Council for the institution of disciplinary proceedings, as well as, termination of the office regarding judges, except the members of the Supreme Court.

### **Article 87. Analyzing and statistical accounting of the arrangement of court activity**

In order provided by the legislation, the courts of the Republic of Azerbaijan shall draw up statistical reports at least once every six months. Respective Chairmen of courts shall be responsible for the accuracy of the statistic data in their reports.

Relevant executive body shall determine the form of statistical accounting of court activity and publish such forms.

Relevant executive body shall summarize statistical reports on courts activity, study and analyze summaries of courts on the arrangement of the court activity. Judicial-Legal Council shall be informed about thereof.

### **Article 88. Court staff**

Supreme Court, courts of appeal, NAR Supreme Court and other courts shall have court staff. The court staff shall secure legal, organizational, informational, logistical, financial and economic maintenance of the courts.

Within the structure of the court staff, each judge shall have a court secretary; each court shall have clerk office, library, archives, logistics service and advisers dealing with receiving of persons, systematization and consolidation of legislation, summarizing of the judicial practice and keeping judicial statistics. Book-keeping, maintaining of the registrar of the courts judgments, as well as, related decisions of higher courts shall be provided in courts.

Court staff shall arrange reception of persons. The secretary of the appropriate judge shall receive persons in connection with the arrangement of the hearing of cases.

The Chairmen of the Supreme Court, courts of appeal and NAR Supreme Court shall fix the structure of the apparatus, staff chart, financial plan, wages of staff members of the Supreme Court, Economic Court, Court of Appeal and the NAR Supreme Court; and the relevant executive body fix the structure of the apparatus, staff chart, financial plan, wages of staff members of the other courts.

### **Article 89. Compliance with legal rules in courts**

Compliance with legal rules courts; protection of court premises, property and documents related to court proceedings shall be protected in order provided by the legislation of the Republic of Azerbaijan.

### **Article 90. Logistics and financing of courts**

In order to secure necessary conditions for administration of justice by courts according to the requirements of the procedural legislation, each court shall be provided with:

- specially equipped premises; emblems of the judicial power: State Flag and State emblem of the Republic of Azerbaijan and Emblem of Justice; and judicial mantle, necessary transport means and technical equipment;
- forms, stamps and seal with the name of the and State Emblem.

Judges of the Republic of Azerbaijan shall be provided with service identification cards confirming their status.

Activity, logistical support of courts shall be provided at the expense of the state budget.

Under the separate article in the State Budget of the Republic of Azerbaijan, financial means shall be allocated to finance court activity and improvement of logistical base of courts.

Relevant executive bodies\*, within the limits provided by the state budget of the Republic of Azerbaijan, shall take necessary measures to secure financing and logistical support of courts activities in due time.

### **Article 91. International relations of courts**

Shall it not be prescribed otherwise by the legislation of the Republic of Azerbaijan and international treaties, the courts of the Republic of Azerbaijan will cooperate with the foreign courts and international organizations thought the relevant executive body\* and the Judicial-Legal Council, the Supreme Court and the NAR Supreme Court will cooperate directly.

## **Section II. Judges**

### **Chapter XV. Judges' status**

#### **Article 92. Judges and similarity of their status**

Judges are the persons vested with authorities to administer justice provided by law.

All the judges of the Republic of Azerbaijan, i.e. Chairmen, deputy Chairmen, Board Chairmen and judges shall have the same status, rights and responsibilities while trying, however, shall differ from each other according to the appointment order, authorities and terms of office. Except for the judgments passed by the Plenary Board of the Supreme Court of the Republic of Azerbaijan, in cases that are considered by the panel of judges, if there is a violation of the law, each judge of the panel, except the judge expressing a dissenting opinion or voting against such decision, is responsible for it.

Judges shall possess service identification documents confirming their status. Milli Majlis of the Republic of Azerbaijan shall fix the samples of the service identification documents.

### **Chapter XVI. Appointment of judges**

#### **Article 93. Requirements to candidates applying to the judicial post**

Subject to part I Article 126 of the Constitution of the Republic of Azerbaijan, citizen of the Republic of Azerbaijan at the age of 30 and above, entitled to vote in elections, with high judicial education and work experience in legal profession for term of at least 5 years may be a judge.

Person with dual citizenship; obligations to other states; belonging to clergy; recognized totally or partially incapable to work by court; unable to exercise judicial authorities due to physical or mental handicap, as confirmed by the medical conclusions; having conviction record; dismissed from the judicial post for actions incompatible with the status of the judge may not be a judge.

#### **Article 93-1. Judicial-Legal Council**

Judicial-Legal Council is an institution that carries out functions of self-governing of the judicial power and, which, within its authorities, carries out organizing of the court system, arranging of the selection of candidates for the judicial posts, ensuring of its operation, transferring of judges to another judicial post, promoting of judges, calling of judges to disciplinary liability, evaluating of the work of judges, as well as, resolving of other issues related to courts and judges in the Republic of Azerbaijan.

Organization, legal foundations of the work and authorities of the Judicial-Legal Council are contained in this Law and the Judicial-Legal Council Law of the Republic of Azerbaijan.

#### **Article 93-2. Judges Selection Committee**

Judicial-Legal Council establishes the Judges Selection Committee to carry out selection of candidates for the judicial posts.

This ACT, Judicial Legal Council Law and the Charter of the Judges Selection Committee approved by the Judicial-Legal Council shall regulate the activity of the Judges Selection Committee.

#### **Article 93-3. Selection of the nominees for the judicial post**

The applicants for the post of judge are submitted to a written exam and to an oral exam. Judges Selection Committee arranges these exams to select candidates.

The results of these exams are evaluated by the Judges Selection Committee. The Judges Selection Committee may engage ad hoc commission in the implementation of this function.

The applicants who have succeeded in these exams are automatically admitted to perform a long-term training period. This training period is organized by the training center. The working places and salaries of the applicants admitted to perform a long-term training will be kept. The financial providing of the applicants who are not working is conducting by the Judicial-Legal Council. The sum of financial providing is defined by the Judicial-Legal Council and paid from the resources assigned for the Council from state budget.

At the end of this training, each trainee is evaluated. The results of this evaluation are based on the considerations made by the Training Center and summarizing interview with the members of the Judge Selection Committee. The evaluation is based on the mark system.

The applicants shall be classified according to their merit, based on the mark obtained.

The results of this evaluation are submitted to the Judicial-Legal Council. The Judicial-Legal Council proposes to the relevant executive body of the Republic of Azerbaijan the appointment of the candidates according to the number of the judge positions.

The applicants who complete training successfully, but fail to receive appointment may be appointed to the administrative positions in the justice bodies or admitted to the service in the prosecutor's office and in case if there is a vacancy, be appointed to the judicial post.

**Article 93-4. Special procedures to appoint to the judicial post**

Outside procedures prescribed by Article 93-3 of this Law, the person who meets the requirements provided by paragraph 1 Article 126 of the Constitution of the Republic of Azerbaijan, is prominent in the legal area, has 20 years experience as a law practitioner and has high moral qualities on proposal of the Judicial-Legal Council may appoint to the high judicial posts according to the procedures provided by the legislation.

**Article 94. Appointment of judges, court chairmen, deputy chairmen and chairmen of court boards**

Subject to part IX Article 109 of the Constitution of the Republic of Azerbaijan, the Chairman of the Republic of Azerbaijan appoints judges of the Republic of Azerbaijan.

Subject to part IX Article 109 and part X Article 95 of the Constitution of the Republic of Azerbaijan, Milli Majlis of the Republic of Azerbaijan appoints the judges of the Supreme Court, the NAR Supreme Court and the courts of appeal, upon the advice of the Chairman of the Republic of Azerbaijan.

As a rule, the posts of high court judge shall be filled by persons who have at least five years work experience as a judge of first instance court.

Chairman of the NAR National Assembly participates in selection of the candidates to the post of judges in the NAR.

Chairmen of the courts of the Republic of Azerbaijan, deputy Chairmen and Board Chairmen shall be elected from among the judges of the appropriate courts and be appointed for five years term and, as a rule, may not be appointed to the same position twice. The Chairmen of the Supreme Court, appellate courts, NAR Supreme Court and Grave Crimes Courts shall be appointed according to the procedure provided for in the paragraph 32 of Section 109 of the Constitution of the Republic of Azerbaijan. Chairmen of other courts of the Republic of Azerbaijan, deputy Chairmen of the courts of the Republic of Azerbaijan, as well as, Board Chairmen shall be appointed, subject to the proposal of the Judicial-Legal Council, according to paragraph 32 of Section 109 of the Constitution of the Republic of Azerbaijan.

**Article 95. The judges oath**

Judges appointed to the posts, prior to commencing with exercising their powers, shall take an oath under the flag of the Republic of Azerbaijan at the Session of the Plenary Board of the Supreme Court. The oath shall be of the following content:

«I swear to administer justice in full compliance with the Constitution and acts of the Republic of Azerbaijan, impartially and justly; secure the independence and dignity of a judge; and behave in the spirit of respect to the good name of a judge.»

Oath is manifestation of the judicial responsibility before the State, citizens and Justice.

Judge's body shall be effective as from the moment of taking an oath.

Judges shall sign the text of the oath and this document shall be kept in the files of the judges.

**Chapter XVII. Authorities of judges**

**Article 96. Term of the office of judge**

New judges shall be appointed for the term of five years. During this term judges shall take training course at least once a year. At the end of this period their activity shall be evaluated. If the evaluation does not reveal any professional shortcoming, the mandate of the judge is extended until the age of retirement of 65, by proposal of the Judicial-Legal Council. If there is necessity to benefit from the professionalism of the judge to have reached his/her age limit, his/her term of office may be extended till 70, subject to the proposal of the Judicial Legal Council.

The evaluation is carried out according to Article 13 of the Judicial-Legal Council Law of the Republic of Azerbaijan.

If the judge reaches age of retirement while in the process of considering the case, his mandate shall be valid until he accomplishes presiding in that case.

#### **Article 97. Inalterability of judges**

Subject to part I article 127 of the Constitution of the Republic of Azerbaijan, term of office of judges shall not be altered.

Judges shall not transferred to another position without their consent.

Subject to the exceptions provided by this Act, the judges shall not be dismissed from their positions and their authorities shall not be terminated.

#### **Article 98. Rights of judges**

In order to administer justice, judges shall vested with the powers provided by this Act.

Judges have right to independence, right to inalterability, right of immunity, right to associate in organizations representing their interests, as well as, right to personal security, right to safety of their and social security rights secured by the State.

Judges shall also have the following rights:

- to demand implementation of their rulings, issued in the course of pursuing the statutory objectives, by officials, natural and legal persons;
- to instruct public institutions, other organizations and officials to eliminate conditions and circumstances promoting violation of laws;
- to obtain information from officials and other people in the course of administration of justice;
- to complaint against his/her calling disciplinary liability;
- to petition regarding resignation from office upon his/her request.

Judges shall have other rights provided by the procedural legislation of the Republic of Azerbaijan.

Public institutions, establishments, enterprises and organizations, legal persons as well as, officials shall be bound to implement rulings and instructions of judges issued in the course of administration of justice. Failure to implement rulings and instructions shall entail liability provided by the legislation.

#### **Article 99. Duties of judges**

The judges shall perform the following duties:

- comply with the statutory requirements precisely and implicitly and secure moral and educational impact of judicial activity, and to be just and impartial in the course of administration of justice;
- maintain the secrecy of deliberation and of information revealed at the closed court sessions;
- refrain from any act harming prestige of justice; good name, honor and dignity of a judge.

Other duties of the judges shall be provided by the legislation of the Republic of Azerbaijan.

While administering justice, judge shall not express his/her opinion on decision, until the final decision is passed. Judges shall not receive persons at the stages of preparation for and hearing of the case in connection with that case.

#### **Article 99-1. Code of Ethic Behavior for Judges**

Code of Ethic Behavior for Judges is a collection of the principles and standards of ethic for the judge's activity. The Code shall prescribe ethic and tact requirements and regulate their professional ethic issues and out of office behavior, as well as, their attitude to the professional activity.

Judicial-Legal Council approves the Code of Ethic Behavior for Judges.



## **Chapter XIII. Independence of judges**

### **Article 100. Independence of judges**

Subject to part I article 127 of the Constitution of the Republic of Azerbaijan, judges are independent and bound by the Constitution and acts of the Republic of Azerbaijan.

Independence of judges shall be provided by their depoliticizing and securing their inalterability and immunity; laying limitations on the appointment, calling to liability, suspension and termination of their office; operating of the judiciary independently; administrating of justice in order provided by the legislation; preventing of imposing of any limitations on or interference with court proceedings; ensuring their personal safety; and supplying them with the financial and social provisions according to their posts, throughout the entire term of their office.

Court judgments shall be based on independent persuasion of judges and trial outcome.

### **Article 101. Immunity of judges**

Judges shall enjoy immunity subject to Article 128 of the Constitution of the Republic of Azerbaijan. Except the cases when the judge has been caught committing the crime, judge shall not be subject to detention or arrest, personal search or examination and shall be criminally prosecuted subject to the permission of the Judicial-Legal Council.

Immunity of judges shall also cover the immunity of their dwelling premises, public offices, transport means, their communication means, post-telegraph correspondence, private property and documents.

The organ of criminal prosecution who has caught the judge committing a crime shall inform about this the Prosecutor-General of the Republic of Azerbaijan immediately. Shall the Prosecutor-General find out that there are sufficient grounds in order to pursue criminal prosecution; s/he will lodge a motion to this effect to the Judicial-Legal Council immediately. Judicial-Legal Council shall consider the motion, with the participation of the Prosecutor General of the Republic of Azerbaijan or his/her deputy, within twenty-four hours from the moment of its lodging, and pass a decision to the effect of either upholding or rejecting it. This decision shall be submitted to the Prosecutor General of the Republic of Azerbaijan immediately.

Shall the Judicial-Legal Council issue permission; the judge who has been caught committing a crime will be criminal prosecuted according to the criminal-procedure legislation of the Republic of Azerbaijan. Without such permission, the judge who has been caught committing a crime shall be released immediately.

In other cases, the motion on the Prosecutor-General of the Republic of Azerbaijan on criminal prosecution of judges shall be considered within ten days period from the moment of its lodging. In case in the Judicial-Legal Council grants its permission, the criminal prosecution is pursued according to the order prescribed by the criminal procedure legislation of the Republic of Azerbaijan.

Judge, in whose regard the criminal prosecution has been permitted, shall not be admitted to the exercising of his/her authorities as of that moment. The judge who has his/her authorities temporarily suspended shall continue to receive wage.

Shall the verdict of acquittal be passed or criminal proceedings be terminated due to exculpatory grounds provided by the criminal procedural legislation, the suspended authorities of the judge will be restored.

In other cases of excluding criminal prosecution, including the cases when guilty verdict or decision prescribing obligatory measures of medical character are passed in respect of judge takes effect, the judge shall be dismissed from the office.

Dismissal of the judge from the office shall be conducted in order provided by parts IV and V of Article 128 of the Constitution of the Republic of Azerbaijan.

Dismissal of the judge from the office shall be considered as termination of his/her powers.

Judges shall not be held liable for the damage sustained by the participant of the process or a person participating in the case due to the court mistake, at the cost of his private property. This damage shall be reimbursed by the state in cases and order provided the law.

### **Article 102. Security of judges**

With the purpose to ensure their security, judges may be supplied with service weapons in order provided by the legislation of the Republic of Azerbaijan. Throughout the entire term of their office, judges shall be

entitled to keep, carry and use for the prescribed purpose the service weapon in cases and order provided by legislation; if necessary, their security shall provided.

**Article 103. Exemption of judges from military enlisting and conscription**

Throughout the entire term of their office, judges shall be exempted from military enlisting and conscription.

**Article 104. Activity incompatible with judicial activity**

Subject to part II article 126 of the Constitution of the Republic of Azerbaijan, judges shall not hold other elective office or position; be engaged in entrepreneurship, commercial or other paid business, except for scientific, pedagogical and creative work; pursue political activity and be a member of political parties; receive payments other than their official wage and remuneration for scientific, pedagogical and creative work.

**Article 105. Depoliticizing of judges**

Before taking an oath, persons appointed to the judicial posts shall quit the membership of political party and political organization. The petitions to this effect shall be attached to their files.

Persons appointed to the judicial posts shall not be allowed to commence with exercising their powers until they quit the membership political party and political organization.

**Article 105-1. Unions (Association) of judges**

Judges shall be entitled to establish their associations according to their common interest and on the basis of principles of voluntary membership and equality of its members.

The basic goals of the associations are to promote uniting of judges, strengthening their independence and assisting to the deepening of the judicial-legal reforms.

**Chapter XIX. Financial provision and social security of judges**

**Article 106. Financial provision of judges**

Judges shall have their wages be determined at the following rate:

- Chairman of the Supreme Court at the rate of 1,300 of the conditional monetary units;
- Chairmen of the NAR Supreme Court and the courts of appeal at the rate of 90 percent of the wage of the Chairman of the Supreme Court;
- Chairmen of the Grave Crimes Court, Military Grave Crimes Court and the Grave Crimes Court of the NAR at the rate of 80 percent of the wage of the Chairman of the Supreme Court;
- Chairmen of other courts, at the rate of 60 percent of the wage of the Supreme Court Chairman;
- deputy Chairmen of courts, at the rate 90 percent of the wage of their respective court's Chairmen;
- chairmen of the Board of Supreme Court, Supreme Court of the Nakhchivan Autonomous Republic and appeal courts- at the rate of 85% of the salaries of the chairman of relevant court.
- judges of all the courts, at the rate 80 percent of the wage of their respective court's Chairmen.

For every five years of judicial experience, as well as, for academic degrees, judges shall receive surplus payment at the rate of 15 percent of official wage, on the condition that surplus does not exceed 45 percent. The employees of the Prosecutor's Office who are appointed to the judicial post shall have surplus added to their wage for every 5 years of their work experience.

**Article 107. Vacation term and remuneration for judges**

Judges shall get annual vacation leave for the term of forty calendar days. Judges shall be paid twice amount of their monthly wage when they get vacation leave.

The judges of the Supreme Court, courts of appeal and NAR Supreme Court shall obtain their annual vacation leave from the their respective Chairmen; all other judges shall obtain the vacation leave from the relevant executive bodies\*.

### **Article 108. Accommodation of judges**

Judges who are in need of dwelling premises at the place of their appointment or of improving their living conditions shall be provided with dwelling premises by the relevant executive body within six months after their appointment.

### **Article 109. Social security of judges**

Life and health of judges are insured at the cost of the State Budget at the rate of their five-year wage. Judges who perish (die), contract illness, get wounded or contused, and sustain injury that does not allow to proceed with implementation of duties, in the line of duty, shall receive one-time payment in order and amount provided by the legislation.

Judges or their family members shall be reimbursed for the property of the judges destroyed or damaged in the course of their judicial activity.

Damage described in this Article shall be reimbursed from the State Budget of the Republic of Azerbaijan in order provided by the legislation and consequently be retrieved from the responsible person.

Judges shall be provided with public medical service. Judges shall be furnished with financial means at the rate of two months wage in order provided by the relevant executive body.

Pensions to former judges, with minimum work experience as judges of 5 years and reaching the pension age, are determined in following amounts dependent on the term of work at the position of judge:

To former judges who held the judge position for the period of 5 years, — at the amount of 43 percent of mean salary for the period of 5 years, received at the position of judge;

Former judges, who worked as such for the period from 5 to 10 years- 45 % of the mean salary during any 5 years, received at the position of judge, with bonus at the size of 2 percent of mean salary for each year of work experience as a judge, exceeding 5 years;

Former judges who worked as judges from 10 to 15 years, — at the amount of 55 percent of average salary for any 5 years, at the position of judge, with bonus at the size of 5 percent of mean salary for each year of work experience as a judge, exceeding 10 years, provided non-exceedance of 80% of the mean salary.

Size of pension is affected by any future changes in the size of salaries;

Provisions of part five of this Article are applicable to former judges, who worked before the introductions stipulated under this Law, and reached the pension age.

## **Chapter XX. Encouragement, termination of office and disciplinary liability of judges**

### **Article 110. Encouragement of judges**

Judicial-Legal Council shall be entitled to take the following encouragement measures in respect of judges for their exemplary implementation of the judicial duties, long record of impeccable judicial experience, as well as, attaining of other achievements :

- spelling of gratitude;
- awarding.

### **Article 111. Elements on which the initiative of the opening of a disciplinary procedure can be based**

Initiative of the opening of a disciplinary procedure in respect of judges shall be evoked if one or several of the following elements exist:

- complaint of the natural and legal persons;
- information published in mass media;
- statutory violations revealed in the course of consideration of the cases in the appellate and cassation instances and special decisions of higher instance courts on the particular judges;
- statutory violations reflected in the decisions of the European Court of Human Rights and the Constitutional Court of the Republic of Azerbaijan;
- statutory violations revealed during the summarizing of the judicial experience and in the course of the judges activity assessment;

- other information received by the person entitled to apply for the institution of disciplinary proceedings.

#### **Article 111-1. Grounds for disciplinary liability of judges**

Judges shall be called to disciplinary liability only on the following grounds:

- either a gross infringement or multiple infringements of the requirements of legislation in the course of consideration of cases;
- breach of the judge ethics;
- gross violation of legislative provisions on the labour or performance discipline;
- failure to comply with the requirement of financial nature contained in Article 5.1 of the Fight against Corruption Law of the Republic of Azerbaijan;
- commission of acts provided by Article 9 of the Fight against Corruption Law of the Republic of Azerbaijan;
- commission of actions unworthy of the good name of the judge.

#### **Article 112. Procedures for calling judges to disciplinary liability**

Only Judicial-Legal Council shall be entitled to institute disciplinary proceedings against judge. Chairmen of the Supreme Court, courts of appeal, NAR Supreme Court and the relevant executive body shall be bound, within their competence, to apply to the Judicial-Legal Council with motion to institute disciplinary proceedings, if there are elements on which the initiative of opening of a disciplinary procedure can be based or grounds for calling to disciplinary liability.

Natural and legal persons, in case if they possess information on the elements provided by paragraph 6 Article 111-1 of this Law on which the initiative of opening of a disciplinary procedure can be based, may apply to the Judicial-Legal Council.

Chairman of the Supreme Court of the Republic of Azerbaijan shall be entitled to apply to the Judicial-Legal Council with motion to institute disciplinary proceedings regarding all judges of the first, appellate and cassation instances courts.

Chairmen of appeal courts apply to Court and Legal Council on initiation of disciplinary actions against the judges of relevant appeal courts, as well as first instance courts, related to territorial jurisdiction of these courts.

Chairman of the Economic Court of the Republic of Azerbaijan shall be entitled to apply to the Judicial-Legal Council with motion to institute disciplinary proceedings regarding all judges of this court, Economic Court on Disputes Arising from International Treaties and judges of local economic courts.

Chairman of the NAR Supreme Court shall be entitled to apply to the Judicial-Legal Council with motion to institute disciplinary proceedings regarding and judges of this court and judges of the first instance courts related to the territorial jurisdiction of the NAR first instance courts.

Relevant executive body of the Republic of Azerbaijan shall be entitled to apply to the Judicial-Legal Council with motion to institute disciplinary proceedings regarding judges of the first and appellate instances.

Disciplinary proceedings against a judge may be instituted within one year after exposure and within three years after commission of the violation.

Only the Judicial-Legal Council with its decision may call judges to disciplinary liability.

Judicial-Legal Council passes one of the following decisions on the disciplinary procedure:

- reprimanding of the judge;
- reproofing of the judge;
- proposing the relevant executive body of the Republic of Azerbaijan to demote the judge;
- proposing the relevant executive body of the Republic of Azerbaijan to transfer to different judicial post;
- proposing the relevant executive body\* of the Republic of Azerbaijan to terminate authorities of the judge;
- terminating of the disciplinary proceedings.

Depending on the grounds for disciplinary liability provided in the article 111-1 of this Law, one of the following punishments to the judges may be prescribed:

- either a gross infringement or multiple infringements of the requirements of legislation in the course of consideration of cases - reproofing of the judge or proposing the relevant executive body of the Republic of Azerbaijan to transfer to different judicial post;
- breach of the judge ethics - reproofing of the judge or reprimanding of the judge or proposing the relevant executive body of the Republic of Azerbaijan to transfer to different judicial post;
- gross violation of legislative provisions on the labour or performance discipline - reproofing of the judge or reprimanding of the judge or proposing the relevant executive body of the Republic of Azerbaijan to transfer to different judicial post;
- failure to comply with the requirement of financial nature contained in Article 5.1 of the Fight against Corruption Law of the Republic of Azerbaijan - reproofing of the judge or reprimanding of the judge;
- commission of acts provided by Article 9 of the Fight against Corruption Law of the Republic of Azerbaijan - reprimanding of the judge or proposing the relevant executive body of the Republic of Azerbaijan to demote the judge or proposing the relevant executive body of the Republic of Azerbaijan to transfer to different judicial post;
- commission of actions unworthy of the good name of the judge - reproofing of the judge or reprimanding of the judge or proposing the relevant executive body of the Republic of Azerbaijan to demote the judge.

The decision on disciplinary liability of judge, if no appealed has been submitted, shall take effect twenty days after enactment.

During this term, appeals against decisions of the Judicial-Legal Council on calling a judge to disciplinary liability shall be made to the Plenary Board of the Supreme Court.

Plenary Board of the Supreme Court shall consider the appeal against decisions of the Council within three months, issue a decision to the effect of either letting it stand, or abrogating or amending it, and presents its decision to the Council. Decision of the Plenary Board of the Supreme Court shall be final in its effect. During consideration of the appeals to decisions on disciplinary liability of judge, members of the Judicial-Legal Council participated in voting are not participate in the voting concerning these decisions at the Plenary Board of the Supreme Court.

Shall the judge not be called to disciplinary liability for the second time in the same year, s/he will be considered not to have been called to the disciplinary liability after expiry of that year.

This Law and Judicial-Legal Council Law of the Republic of Azerbaijan shall regulate the procedure of calling judges to disciplinary liability.

### **Article 113. Grounds for terminating of judicial authorities**

Judges' authorities are ceased from the side of the Judicial-Legal Council on the expiry of their commission term (renewed commission term).

Judges' authorities may be terminated pre-term on the following grounds:

1. written application of resignation;
2. dismissal from the office of a judge;
3. upon court ruling declaring him physically handicapped and/or otherwise afflicted;
4. in case of death;
5. upon court ruling declaring him dead or missing;
6. upon revealing failure to meet requirements defined hereof to candidates to a judicial posit;
7. dealing with activity not compatible with his position;
8. on quitting a citizenship of the Republic of Azerbaijan, and adopting a citizenship of another country or taking obligations to a different country;

9. if the special medical commission set up by the Judicial-Legal Council has issued an opinion proving his/her inability to fulfill his duties due to sickness for more than six months period;

10. if the disciplinary liability has been exerted on a judge twice in a calendar year on the grounds mentioned in Article 111-1.

11. in case if s/he has committed multiple gross violation of the legislation in the course of consideration of the case.

#### **Article 114. Pre-term termination of office of judge**

If there are reasons specified in paragraph 6-11 Section 113 of this Act, the Chairman of the Supreme Court or relevant executive body, in order to secure early termination of the authorities of judges, shall submit motion to the Judicial-Legal Council to institute disciplinary proceedings.

If the Judicial-Legal Council passes decision on early termination of authorities of a judge, it shall propose the relevant executive body of the Republic of Azerbaijan to this effect.

In the event of existence of basis stipulated under items 1 and 6-11 of Article 113 of this Law, authorities of judges can be seized by appointing authority.

In the event of existence of basis stipulated in items 3-5 of Article 113 of this Law, authorities of judges can be seized before expiry of their term by the Court and Legal Council.

### **Chapter XXI. Jury**

#### **Article 115. Qualifications of Jurymen**

Jurymen are citizens of the Republic of Azerbaijan who are engaged in the consideration of the case in court and included in the jury lists in cases and order provided by the legislation of the Republic of Azerbaijan

The following persons shall not be included in the jury list:

- not entitled to vote in elections;
- have not reached the age of 25 at the time of drafting of the jury list;
- have a dual citizenship;
- have obligations to other countries;
- have been convicted before and accused in committing a crime;
- have been declared by court to be fully or partially incapable to work.

No restrictions shall be imposed while including in the jury list in respect of citizens due to their race, nationality, religion, language, sex, origin, proprietary status, public rank, conscience and other circumstances.

The following people shall be excluded from the jury list of:

- do not speak the language of court proceedings;
- are dumb, deaf, blind and invalids;
- are not able to perform duties of jurymen due to physical or mental handicap proved by medical certificate;
- have attained the age 70;
- heads of executive and legislative bodies; their deputies; judges; prosecutors; heads and agents of the internal affairs, border guard and national security services; investigators; defense lawyers and notaries;
- military servicemen;
- clergymen.

#### **Article 116. Foundations for dismissal of jurymen**

The presiding judge shall dismiss the jurymen in the following cases:

- if the jurymen do not meet the requirements provided legislation;

- if any doubts appear as to exerting of unlawful influence on jurymen, their being prejudiced, their learning of the merits of the case from sources not provided by procedural legislation, as well as, other reasons;
- if juryman submits petition of resignation due to the valid cause.

#### **Article 117. Jury list drafting**

Once in two and a half years, management of the relevant executive body shall draft main and substitute jury list out of citizens residing in the appropriate territory in order to provide activity of jury court in that district (city).

The number of citizens included into the substitute jury list shall not exceed one quarter of the number of jurymen included into the main list.

The Chairmen of the relevant courts shall determine necessary number of jurymen and submit motion to the relevant executive body.

The relevant executive body shall identify the terms and order of drafting the main and substitute jury list.

#### **Article 118. Main and substitute jury list**

According to the motion of the relevant Chairman of court, the relevant executive body shall draft develop general list on the basis of voters of the region (city) by means of accidental choice of the determined number of citizens. Then according to the requirements stipulated by the Law hereby, names of absentees in the court shall be excluded from the list.

The relevant executive body shall advise the citizens on the development of general list of jurymen and then within a month after that shall familiarize persons interested with the lists and shall study all incoming applications.

Along with the development of general list the relevant executive body shall develop a spare list where only permanent residents of the region ( city) are included.

General and spare jurymen lists signed and sealed by the head of the executive body shall be submitted to the corresponding court.

General and spare lists shall be issued in mass media for citizens' attention.

State agencies, enterprises, institutions and organizations and also citizens pertain the right to address the corresponding executive body with notification on illegal inclusion into the list or exclusion from the list exact persons and other violations or mistakes in the lists.

Corresponding executive body shall examine applications received and shall make decisions within seven days. These decisions may be appealed in district (city) courts within five days. The court shall examine the complaint and shall make a decision within three days.

Corresponding executive body shall be obliged to check on regularly basis and if necessary to make changes in the lists, by excluding persons who lost their right and by including additionally elected jurymen.

All changes and supplements made in the lists shall be submitted to the corresponding court within seven days.

#### **Article 119. Submitting of information necessary for jurymen lists development**

Citizens, officials of state agencies, enterprises, institutions and organizations shall be obliged to pass information necessary for the lists development to the relevant executive body as requested.

Non-provision or presentation of false information provoke responsibilities.

#### **Article 120. The order and terms of responsibilities executed by jurymen**

The call of necessary number of jurymen to the court for participation in action consideration shall be carried out by the court staff in accordance with the order of the Chairman of the court considering the action.

If jurymen do not meet the requirements stipulated by the Legislation, the Chairman of the court shall advise the corresponding executive body about their exclusion from the jurymen list.

Citizens can perform responsibilities of jurymen once a year within 15 days. If the consideration of action with the involvement of the jurymen is not accomplished within the period of expiry terms, then the terms shall be prolonged to the whole period of action consideration.

**Article 121. Jurymen working place and salary preservation**

working place, salary and other payments shall be preserved for the period of their liability performance.

In regard with the liabilities performance, jurymen from employees of enterprises, institutions being under the budget shall get their salary in their working place, the salary of jurymen from employees of commercial, private or other enterprises shall be paid in order stipulated by the Legislation of the Republic of Azerbaijan.

Dismissal of the jurymen while carrying out responsibilities on the initiative of the administration of the enterprise, institutions or other organizations shall not be allowed.

**Article 122. Jurymen independence and inviolability insurance**

Jurymen independence shall be insured by the independent activity of legal power and the procedure of justice execution, by the liberty of responsibilities performance while considering action in the court, by prohibition for limitations determination and for interference with the legal proceedings and by jurymen inviolability stipulated by the Law.

If there is any warning from jurymen, they shall be secured and property saved. The life and health of jurymen, performing their duties in the Jury Trial shall be obligatorily insured by the state according to the legislation. In case of death of the jurymen in the course of discharge of his/her obligations or illness, wounding, contusion, injury, which do not allow to continue the work, a lump sum grant shall be paid in an order and sum, stipulated by the legislation.

Jurymen are not carrying responsibilities for damages to the property of the action participants or the person involved in the action consideration caused by mistakes in the court process. The damage shall be reimbursed by the state in order and terms stipulated by the Law.

**Article 123. Account for standing in the way of jurymen performing their liabilities**

Supervisors of the enterprises, institutions and organizations and other officials and citizens standing in the way of jurymen shall be called to account, stipulated by the Legislation.

**Miscellaneous provisions**

1. The Law hereby shall come into force from the day of its issue.
2. From the day of the Law coming into force, all acting legislative regulations of the Republic of Azerbaijan within juridical structure and judges status with the exception of regulations on financial and social insurance of judges, elected before its adoption, shall lose their force.
3. District (city) courts and tribunals of military garrison of the Azerbaijan republic from the day of the Law hereby coming into force shall be called district (city) courts and military courts correspondingly.
4. Before organization of courts stipulated by the Law hereafter and adoption of new Laws, acting courts of the Republic of Azerbaijan accomplish body determined by the acting legislation.
5. The terms of judges body elected before the adoption of the Law shall be considered to be expired from the day of new judges are appointed and during the action consideration till the end of the process.
6. Regulations of the Law related to jurymen shall come into force after accomplishment of reforms and adoption of the corresponding Law.
7. Section 96 of this Law shall not be applied to the judges selected to their posts prior to the 1<sup>st</sup> January 2005 and they shall continue to exercise their authorities. Upon expiration of the term of their office, they shall be entitled to re-appointed to the judicial posts subject to the results of evaluation of their activity. If the evaluation reveals the adequacy of their activity, they are entitled to appointment to the judicial posts for the following terms:
  - 10 years, if he has judicial experience up to 15 years, provided that the maximal age requirement will not be exceeded;
  - until s/he reaches age limit of 65, if he has 15 years or more experience.



The mandate of judges whose term of office was extended for 10 years, when expired, may be extended on the basis of the result of evaluation according to the order provided by this Law.

If there arise necessity to benefit of the professionalism of the judge to have reached his/her age limit, his/her age term of office may be extended until he reaches 70.

8. Transfer of the judge, who has been appointed for particular term, to another judicial post shall not extend term of his authorities. Transfer of judges other posts shall be carried out within the term of authorities that they have been elected for.

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### **Miscellaneous provisions**

1. Authorities of the judges of the courts of the Republic of Azerbaijan who were appointed before January 1, 2005 will be terminated as of the day of appointment of the new judges to these positions and in case of the pending trial, upon its completion.

2. Disciplinary Collegial Board of the Supreme Court of the Republic of Azerbaijan shall proceed with conducting disciplinary proceedings instituted before this Law entered into force. Appeals against these decisions of the Disciplinary Collegial Board of the Supreme Court, as well as other decisions passed by the Disciplinary Collegial Board before the present Law came into force shall be filed with the Disciplinary Commission of the Plenary Board of the Supreme Court of the Republic of Azerbaijan.

**Heydar ALIYEV**

**Chairman of the Republic of Azerbaijan**

**Baku city, June 10, 1997**

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