

SERIOUS CRIMES COURT, LAW *GJYKATA E KRIMEVE TË RËNDA, LIGJ*

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Unofficial publication of the unofficial translation of the law on Serious Crimes Court:

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LAW

Nr. 9110, dated 24 July 2003

ON THE ORGANIZATION AND FUNCTIONING OF THE COURTS FOR SERIOUS CRIMES

In reliance on Articles 81 point 1 and 2, letter "a," 83 point 1 as well as Article 135 of the Constitution, on the proposal of the Council of Ministers,

THE ASSEMBLY OF THE REPUBLIC OF ALBANIA

D E C I D E D:

Article 1

Purpose

The purpose of this law is the organization and functioning of the courts for serious crime, with the aim of increasing the effectiveness of the fight against organized crime and serious crimes and improving the quality of their adjudication.

Article 2

Organization of the courts for serious crimes

1. Unless differently provided in this law, legal provisions concerning the organization of judicial power and those on the High Council of Justice are to be implemented for the organization and functioning of the courts for serious crimes and of the courts of appeal for serious crimes.
2. The courts for serious crimes and the courts of appeal for serious crimes are links in the judicial system that examine at the first and second level highly dangerous criminal cases identified by law.
3. The number of courts for serious crimes and of courts of appeal for serious crimes and of their judges, as well as their territorial jurisdiction, is set by decree of the President of the Republic, on the proposal of the Minister of Justice, after receiving the opinion of the High Council of Justice.

Article 3

Composition

1. The court for serious crimes is composed of a chief judge, a deputy and judges, appointed for a 9-year term.
2. Candidacies for vacancies on courts for serious crimes and on courts of appeal for serious crimes are reviewed by the High Council of Justice and the decision to propose their appointment to the President of the Republic is made by a majority of the votes of all members of this Council.
3. Upon their request and with the proposal of the High Council of Justice, the judges of the courts for serious crimes and of the courts of appeal for serious crimes may be re-appointed to this position.
4. Regardless of the completion of the 9-year term, the judges of the courts for serious crimes and of the courts of appeal for serious crimes remain in their positions until the appointment of their successors.
5. Upon completion of the term, at their request, the judges of the courts for serious crimes and of the courts of appeal for serious crimes have the right to be appointed:
 - a) to their previous judicial office;
 - b) to vacancies on other courts in the judicial system, receiving priority over other candidates.
6. The judges of the courts for serious crimes and of the courts of appeal for serious crimes continue to receive their salary and other benefits even after the completion of the 9-year term of their mandate on these courts, when they continue to perform duties in the judicial system.
7. Salaries and other benefits according to section 6 of this Article shall also be enjoyed by judges who, for reasonable motives, leave this office before the end of the 9-year term, on

the condition that their departure not be the result of disciplinary proceedings against them. In any case, the High Council of Justice, according to concrete circumstances, may place some conditions or limitations on the further enjoyment of the salary and other benefits, respectively, of a judge of the court for serious crimes or of the court of appeal for serious crimes.

Article 4

Criteria for appointment of judges

1. The appointment of the judges of the courts for serious crimes and of the courts of appeal for serious crimes is done according to the conditions set in Article 24 of law no 8436, dated 28 December 1998 "On the Organization of the Judicial Power"
2. Persons who were removed from being a judge as a disciplinary measure may not compete for vacant places in the courts for serious crimes and the courts of appeal for serious crimes.
3. Judges who have been given a disciplinary measure other than that mentioned in section 2 of this Article may compete only after two years have passed from the day the punishment was concluded.

Article 5

Competencies of the courts for serious crimes

1. The courts for serious crimes and the courts of appeal for serious crimes judge adjudicate in the first and second instances criminal offences that are provided in Article 75 (a) of the Code of Criminal Procedure.
2. When during the trial the legal subsumption of the criminal offence changes and for this reason the jurisdiction belongs to another court, the trial continues and is completed by the court for serious crimes while applying the provisions of the Code of Criminal Procedure.
3. The court for serious crimes and the court of appeal for serious crimes review requests and complaints of the parties, which have been made during the preliminary investigations on matters for which they have jurisdiction. The determination and evaluation of the security measures for cases of arrest in the course of commission of offence and of detention of the suspect in connection with a crime can be made by a judge of the judicial district where the criminal offence was committed or where the detention took place.

Article 6

Composition of the judicial body

1. Courts for serious crimes and courts of appeal for serious crimes adjudicate by judicial panels composed of five judges.

2. When a judicial body cannot be formed for objective reasons or a legal impediment, with the proposal of the Minister of Justice on the request of the chairman of the court, the High Council of Justice designates judges of other courts for serious crimes or of the courts of appeal for serious crimes, as well as judges of other courts, to complete the judicial body, on the condition that they meet the criteria provided in Article 4, section 1, of this law.

Article 7

Special procedural rules

1. Courts for serious crimes and courts of appeal for serious crimes apply the rules determined by the Code of Criminal Procedure, with the exception of cases provided by this law.
2. Except for cases provided in Article 340 of the Code for Criminal Procedure, trials of cases by courts for serious crimes and by courts of appeal for serious crimes also take place behind closed doors when this is seen as necessary for the case at trial or for other proceedings, in the interest of national security, public order, justice and the protection of participants in the trial.
3. In special cases, on the request of the parties, the court may decide to hold the sessions at another venue, being outside where it normally carries out its activities.
4. In special cases, at the reasoned request of the Prosecutor General and with a decision of the criminal panel of the High Court, the matter may be transferred to another court for serious crimes.

Article 8

Questioning of witnesses

The courts for serious crimes and the courts of appeal for serious crimes may permit that questioning of witnesses, as well as confrontations and permissible readings be performed under the following rules, either together or separately:

- a) in the presence of the defendant and the defence attorney, but without visual contact;
- b) without communicating to the defendant and the defence attorney the identity of the witness;
- c) in certain other cases and ways, determined according to the legislation on the protection of witnesses and justice collaborators.

Article 9

The rights and guarantees of judges

1. Besides the rights and guarantees recognised by law nr. 8436, dated 28 December 1998, "On the Organization of the Judicial Power in the Republic of Albania" the judges of the

courts for serious crimes and of the courts of appeal for serious crimes also enjoy these rights and guarantees:

- a) a special salary, according to Appendix no. 1, which is attached to this law;
- b) special benefits beyond the salary, equal to one monthly salary for the holiday period;
- c) special personal, family and property protection, as well as close physical protection, according to the manner provided in sub-statutory and statutory acts.

Article 10

Sub-statutory acts

Within three months from the effective date of this law, the Council of Ministers is charged, after having received the opinion of the High Council of Justice, with issuing the necessary sub-statutory acts in connection with securing the special protection of the work premises, close physical guarding, protection of family and property, and other measures related to the special protection of the courts for serious crimes, of the courts of appeal for serious crimes, as well as their judges.

Article 11

Final provisions

1. The courts for serious crimes and the courts of appeal for serious crimes shall begin to function on 1 January 2004.
2. Criminal cases being in the course of adjudication at the courts of first and second instance up to the day the courts for serious crimes begin to function will be completed by these courts.
3. The courts for serious crimes and the courts of appeal for serious crimes shall be located temporarily in special premises of the courts of the place where they have their seat, which are to be secured in a special manner.
4. With the entry of this law into force, the Council of Ministers and the High Council of Justice, according to their competency, are to take measures to meet the respective obligations provided in the law in connection with beginning the activity of the courts for serious crimes and the courts of appeal for serious crimes.

Article 12

Entry into force

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

Promulgated by decree no 3936, dated 19 August 2003, of the President of the Republic of Albania, Alfred Moisiu.

Appendix nr. 1

1. The salary system of the courts for serious crimes:

- a) chief judge – 70% of the monthly salary of a High Court judge;
- b) deputy chief judge – 65% of the monthly salary of a High Court judge;
- c) judge – 60% of the monthly salary of a High Court judge.

2. The salary system of the courts of appeal for serious crimes:

- a) chief judge – 90% of the monthly salary of a High Court judge;
- b) deputy chief judge – 80% of the monthly salary of a High Court judge;
- c) judge of appeal for serious crimes – 75% of the monthly salary of a High Court judge.