

**Decree Law No. 2 of 2006 Concerning the Amendment of the Judicial Authority Law  
No. 1 of 2002**

**The Chairman of the Executive Committee of the Palestine Liberation Organisation,  
The President of the Palestinian National Authority,**

Having reviewed Article 43 of the Amended Basic Law of 2003 and its Amendments,

Having consulted with the High Judicial Council pursuant to the provisions of Article 100 of the Basic Law,

Based upon the powers bestowed upon me, and

In accomplishment of the public interest,

**I hereby promulgate the following decree law:**

**Article 1**

The following paragraph shall supplement the provisions of Article 16 of the Original Law as follows:

Notwithstanding what is set forth in any other piece of legislation, appointment to the position of a judge may not occur except following the verification of competence, good conduct and capacity of the candidate to the service in the Judiciary. The competition among applicants for vacant positions shall be conducted on the level of a judge at the Magistrate Court by means of a committee appointed by the High Judicial Council of three (3) judges from the High Court other than those who are members of the High Judicial Council. Vacant positions and appointments of the competition shall be announced by the President of the High Judicial Council at least one week (1) prior to its being held.

**Article 2**

Article 18 of the Original Law is hereby amended by repealing clause (b) under paragraph 1 and replacing it with the following provision:

b) By promotion on the basis of competence while taking seniority into consideration.

**Article 3**

The provisions of Article 27 of the Original Law are hereby repealed and replaced by the following provisions:

- a) A judge may not be deposed or his services be dispensed with or his rank be demoted except by a decision of the High Judicial Council and the approval of the President of the National Authority.
- b) Upon their appointment, Magistrate judges shall be subject to a non-renewable probationary period of three (3) years, at the expiration of which the service of the judge may be terminated by decision of the High Judicial Council and the approval of the President of the National Authority.

**Article 4**

Article 28 of the Original Law is hereby amended by supplementing the following paragraph 3:

3.
  - a) A judge must reside in the area in which the location of his work is situated.
  - b) The President of the High Judicial Council may, under exceptional circumstances, allow a judge to reside in the location of the Court of First Instance to which he is affiliated or in another place that is near the location of his work.

#### **Article 5**

The following paragraphs shall supplement the provisions of Article 34 of the Original Law:

1. Notwithstanding what is set forth in any other piece of legislation, the High Judicial Council shall have the right, upon the recommendation of the President of the Council or the Attorney-General, to retire on pension any judge or member of the Public Prosecution who reaches the age of retirement set forth in the Law of Public Retirement.
2. The High Judicial Council shall have the right to transfer any judge or member of the Public Prosecution to provisional retirement for a period of five (5) years if he has not completed the period of service which is required for his retirement on pension. In such case, the judge or member of the Public Prosecution shall earn his full salary and increments. Upon the expiration of the period of the transfer to provisional retirement, he shall be retired on pension pursuant to the law.
3. A member of the Council may not attend the meeting of the Council which discusses his retirement on pension, transfer to provisional retirement, or termination of service.
4. The Law of Public Retirement shall refer to any law of retirement to which the judge may be subject, whether it is the Law of Public Retirement, the Law of Insurance and Pensions, or other law.

#### **Article 6**

The provisions of Article 35 of the Original Law are hereby repealed and replaced by the following provision:

The provisions of leaves set forth in the Law of Civil Service shall apply to judges and members of the Public Prosecution.

#### **Article 7**

Article 42 of the Original Law is hereby amended by repealing the provision under paragraph 1 and replacing it with the following provision:

A Department of Judicial Inspection shall be established and attached to the High Judicial Council. It shall be headed by a judge of the High Court who shall be appointed by the President of the National Authority and shall consist of a sufficient number of judges of the Courts of Appeal appointed by decision of the High Judicial Council.

#### **Article 8**

The provisions of Article 46 of the Original Law are hereby repealed and replaced with the following provisions:

1. The High Court of Justice shall have exclusive jurisdiction over requests by judges and members of the Public Prosecution regarding the annulment of final administrative decisions concerning their affairs, whether the request refers to a formal defect, a

contravention of the laws and regulations, an error in their enforcement, or an abuse of authority.

2. In addition, the aforementioned Court shall have exclusive jurisdiction over requests for indemnity due to such decisions.
3. The aforementioned Court shall also have exclusive jurisdiction for the adjudication of disputes regarding the salaries, pensions, and remunerations of judges and members of the Public Prosecution or their heirs.
4. A person who was a member of the High Judicial Council may not sit for the adjudication of such matters if he took part in the decision due to which the request was submitted.
5. The requests mentioned under the preceding paragraphs shall be submitted in a petition to be deposited with the Clerk of the High Court of Justice without fees, including the names of the adversaries and the subject of the request. The petitioner shall deposit along with such petition as many copies thereof as the number of adversaries with the docket which supports his request.
6. The applicant shall commence all proceedings before the High Court of Justice by himself. He may present his defence in writing or delegate on his behalf a judge other than those of the High Court of Justice.
7. Within sixty (60) days from the date of the publication of the challenged decision or the notification of the concerned person or his knowledge thereof in an absolute manner, the request shall be submitted in the Official Gazette.
8. The action and adjudication shall be prepared in an expeditious manner. The judgements issued thereon shall be final and not challengeable by any means or before any other judicial authority.

#### **Article 9**

The provisions of Article 47 of the Original Law are hereby repealed and replaced with the following provisions:

1. The President of the High Judicial Council shall have the right to the administrative supervision over all judges. Such right shall be with the President of each court over its judges. For the purposes of this paragraph, Magistrate judges in the seats of the Courts of First Instance shall be deemed judges thereat.
2. The President of the High Judicial Council may spontaneously or based upon the recommendation of the President of the Court in charge notify a judge about any action of his that contravenes the obligations or requirements of his function. Such notification shall be kept in the confidential file of the judge.

#### **Article 10**

The provisions of Article 48 of the Original Law are hereby repealed and replaced with the following provisions:

1. The Disciplinary Council shall consist of a panel of at least three (3) judges from among the members of the High Judicial Council or other judges to be appointed by the Council. A Chairman shall be nominated from among them. The Council may appoint more than one panel.
2. The Disciplinary Council shall issue its decisions by consensus or by majority vote.

### **Article 11**

The provisions of Article 49 of the Original Law are hereby repealed and replaced with the following provisions:

The disciplinary action shall be filed against a judge by the Attorney-General based upon the request of the President of the High Judicial Council and the decision of that Council. Such shall not prevent his chairing of the Disciplinary Council.

### **Article 12**

The provisions of Article 50 of the Original Law are hereby repealed and replaced with the following provisions:

1. The disciplinary action shall be filed against a judge through a petition including the imputed impeachment or impeachments, as well as supporting evidence. It shall be submitted to the Disciplinary Council in order to issue a decision to call the judge to appear before it. The Disciplinary Council shall commence the proceedings within a period not to exceed fifteen (15) days from the date on which the petition was submitted.
2. The Disciplinary Council shall have the right to conduct the investigations which it deems appropriate, as well as delegate one of its members to do so. The Disciplinary Council or the member whom it delegates shall have the authority of the courts with regard to the summoning of witnesses to testify before it as it deems necessary and the requesting of other evidence.
3. If the Disciplinary Council deems it appropriate to proceed in the action regarding all impeachments or some of them, the judge shall be summoned to attend the trial, provided that the interval between the summons to attend and the appointment of the trial shall not be less than seven (7) days. The summons shall include an adequate statement on the subject of the action and the evidence of the impeachment.
4. Upon deciding to proceed in the action, the Disciplinary Council may suspend the judge from the activities of his function until the trial is concluded. The provisions of Article 58 shall apply.
5. If it appears to the Disciplinary Council that the contravention which is imputed to the judge and due to which he is referred to discipline entails a criminal offence, it must cease the procedures of discipline and refer the judge, along with the minutes of investigation and other papers and instruments relating to the contravention, to the Public Prosecution or to the competent court to proceed in the case pursuant to the provisions of the law. In this case, no disciplinary measure may be taken against the judge, and no measure that was taken may continue until the definitive judgement is issued on the complaint or the criminal action which was submitted.
6. The quittance of the judge from the complaint or action which was filed against him pursuant to the provisions of paragraph 5 of this Article or the decision of his non-liability for what was imputed to him shall not prevent necessary disciplinary measures against him due to the contravention which he committed and the imposing of the appropriate disciplinary penalty upon him if he is convicted thereof.

### **Article 13**

The provisions of Article 51 of the Original Law are hereby repealed and replaced with the following provisions:

The disciplinary action shall terminate by the resignation of the judge and the acceptance by the Disciplinary Council thereof or by retiring him on pension. The disciplinary action shall

have no effect upon the criminal or civil action arising from the incident itself. The Council shall be entitled to refer the case to the Public Prosecution, notwithstanding the resignation of the judge or his retiring on pension, if it sees a justification therefor.

#### **Article 14**

The provisions of Article 52 of the Original Law are hereby repealed and replaced with the following provisions:

The sessions of the disciplinary trial shall be held in in camera. The judge shall appear in person before the Disciplinary Council or delegate a lawyer in his stead. The Disciplinary Council shall have the right to order the judge to attend. If he does not attend or delegate a person on his behalf, he shall be tried in absentia.

#### **Article 15**

The provisions of Article 53 of the Original Law are hereby repealed and replaced with the following provisions:

The Disciplinary Council shall issue its decision on the disciplinary action following the hearing of the requests of the Prosecution and the defence of the judge. The decision in a disciplinary case must include substantiating grounds, which shall be read when the decision is pronounced. The judgement shall be subject to challenge before the High Court of Justice.

#### **Article 16**

The provisions of Article 54 of the Original Law are hereby repealed and replaced with the following provisions:

1. Any infringement of the duties of the function and any act that contravenes honour, integrity, or decency shall constitute an error due to which the judge shall be punished in a disciplinary manner.
2. The infringement of the duties of the function shall include tardiness to adjudicate lawsuits, non-defining of an appointment to make the judgement understood, discrimination between litigants, revealing of secrets of discussion, absence without an excuse, and non-abidance by the working hours.

#### **Article 17**

The provisions of Article 55 of the Original Law are hereby repealed and replaced with the following provisions:

1. The Council may impose the following disciplinary penalties:
  - a) Admonition.
  - b) Warning.
  - c) Deduction from the salary.
  - d) Demotion of the rank.
  - e) Dispensing with the service.
  - f) Deposition.
2. The decision issued to depose the judge or dispense with his services shall not affect his entitlement to pensions or remuneration, unless the decision determines otherwise.

### **Article 18**

The provisions of Article 58 of the Original Law are hereby repealed and replaced with the following provisions:

The High Judicial Council may suspend a judge from the commencement of the activities of the function during the proceedings of investigation or trial for an offence that was imputed to him either by himself or based upon the request of the Minister of Justice or the Attorney-General. The Council may review the decision of suspension at any time.

### **Article 19**

Article 66 of the Original Law is hereby amended so as what is mentioned thereunder becomes paragraph 1 and the following paragraph shall supplement thereto as paragraph 2:

2. The Attorney-General shall have the right to establish a ‘Technical Office,’ a ‘Department of Inspection over the Members of the Prosecution,’ a ‘Department for the Implementation of Penal Judgements,’ and any other specialised offices, departments, or prosecutions to regulate the progress of work at the Public Prosecution. He shall also issue the bylaws and decisions pertaining thereto. These shall be published in the Official Gazette.

### **Article 20**

The provisions of Article 79 of the Original Law are hereby repealed and replaced with the following provisions:

1. With the exception of what is set forth in this law, the provisions of the Law of Civil Service shall apply to the employees of courts and the Public Prosecution.
2. The President of the High Court shall have the powers of the Minister and Deputy-Minister set forth in the laws and regulations concerning the employees at courts.
3. The Attorney-General shall have the powers of the Minister and Deputy-Minister referred to under the preceding paragraph concerning the members of the Public Prosecution.
4. The High Judicial Council shall issue the bylaws necessary to interrogate the employees of courts and Public Prosecution, discipline them, and form disciplinary councils responsible for disciplining them.

### **Article 21**

The provisions of Article 80 of the Original Law are hereby repealed and replaced with the following provisions:

The High Judicial Council shall issue the bylaws necessary to enforce the provisions of this law, which shall be approved by the President of the National Authority and published in the Official Gazette.

### **Article 22**

The provisions of Article 81 of the Original Law are hereby repealed and replaced with the following provisions:

In cases other than those expedient, formations amongst judges may not be conducted except once per year. This shall take place during the month of July.



### **Article 23**

The provisions of Article 83 of the Original Law are hereby repealed and replaced with the following provisions:

1. The annual judicial vacation shall be in the period between the 15th of July of each year and the 31st of August of the same year. A judge must obtain his annual leave within this vacation. Leaves may be granted beyond such period by decision of the President of the High Judicial Council based upon the recommendation of the President of the respective court.
2. Each judge shall submit an application to obtain his annual leave to the President of the competent court at least fifteen (15) days prior to the commencement of the judicial vacation, so that the President of the court refers it to the President of the High Judicial Council, along with his opinion on the application, taking into consideration the progress of work at the court and the continuation of the hearings of urgent cases, which the President of the court designates.
3. The Bar Association shall define the leave of lawyers within the judicial vacation during the period set forth under paragraph 1 above, provided that the leave does not exceed forty five (45) days a year.
4. During the judicial vacation, the courts shall adjourn the cases of a lawyer who uses his leave during the judicial vacation.

### **Article 24**

A new Article shall supplement the law, as follows:

In cases other than those set forth in this law, the provisions of the Law of Civil Service and all other legislation pertaining to employees shall apply to judges and members of the Public Prosecution.

### **Article 25**

This decree law shall be presented to the Legislative Council for approval in the first session which it holds following its promulgation.

### **Article 26**

All provisions that contradict the provisions of this decree law are hereby repealed.

### **Article 27**

All competent authorities, each one within its sphere of jurisdiction, shall implement the provisions of this decree law, which shall enter into force as of the date of its promulgation and shall be published in the Official Gazette.

**Issued in the city of Ramallah on 5 February, 2006 AD.**

**Mahmoud Abbas**

**Chairman of the Executive Committee of the Palestine Liberation Organisation  
President of the Palestinian National Authority**