

**Law by Decree No. 2 of 2018**  
**Concerning the Security Forces Justice Commission**

**The President of the State of Palestine**

**The Chairman of the Executive Committee of the Palestine Liberation Organisation**

In reference of the provisions of the Amended Basic Law of 2003, as amended, particularly Article 43 thereunder,

Having reviewed the provisions of the Law of Service in the Palestinian Security Forces No. 8 of 2005,

Having reviewed the provisions of the Revolutionary Law of Penal Procedure of 1979, as amended,

The provisions of the Revolutionary Penal Law of 1979,

The provisions of the Revolutionary Law on Correction and Rehabilitation Centres of 1979,

Based upon the recommendation of the Council of Ministers, dated November 14<sup>th</sup>, 2017,

Based upon the powers vested in me,

In pursuance of the public interest, and

In the name of the Arab Palestinian people,

**I hereby promulgate the following Law by Decree:**

**Title I**

**Definitions and General Provisions**

**Article 1**

**Definitions**

The following words and expressions provided for under this Law by Decree shall have the meanings designated thereto hereunder, unless the context determines otherwise:

**The State:** The State of Palestine.

**The Commander-in-Chief:** The Commander-in-Chief of the Palestinian security forces.

**The Commission:** The Security Forces Justice Commission, which reports to the Commander-in-Chief, and includes all the personnel [of the security forces].

**The Chairman of the Commission:** The Chairman of the Security Forces Justice Commission and Chairman of the Board of the Security Forces Justice Commission.

**The Board:** The Board of the Security Forces Justice Commission, established within the Commission in pursuance of the provisions of this Law by Decree.

**Military courts:** The courts which report to the Commission.

**Military Prosecution:** The party which institutes criminal proceedings and initiates the public right of action (*actio popularis* case) of military concern. It shall comprise the Chief Military Prosecutor, his assistants, and members of the Military Prosecution, each in the sphere of his jurisdiction.

**Technical Office:** A technical department that reports to the Chairman of the Commission and exercises its jurisdictions in accordance with what is described in the provisions of this Law by Decree.

<b>Inspection Department:</b>	A department that consists of judges and is responsible for inspecting the functions of judges, members of the Military Prosecution, and administrative staff working at the Commission.
<b>Military judge:</b>	The jurist officer who is appointed to the Commission in accordance with the provisions of the law.
<b>Member of the Military Prosecution:</b>	The jurist officer who is appointed to work at the Military Prosecution in accordance with the provisions of the law.
<b>Legal field:</b>	The legal positions, the holder of which carries a legal description or a jurist officer from among the personnel of the Palestinian security forces, as well as the lawyer or judge at the regular judicial system.

## **Article 2**

### **The Board of the Security Forces Justice Commission**

1. The Board of the Security Forces Justice Commission shall be established by a decision from the Commander-in-Chief in the following manner:
  - a. Chairman of the Security Forces Justice Commission as a Chairman.
  - b. Deputy Chairman of the Security Forces Justice Commission as a Deputy.
  - c. Chief Military Prosecutor as a member.
  - d. Presiding Judges of Courts of Appeal as members.
  - e. Presiding Judge of the Special Court as a member.
  - f. Director of the Judicial Inspection Department as a member.
2. In addition to the powers provided for under this Law by Decree, the Board shall be responsible for preparing the plans, mechanisms, structures, and budgets needed to develop and promote the work of the Commission as well as its judicial and administrative staff.
3. The Board shall exercise its powers and jurisdictions in accordance with a regulation issued forth by the Council of Ministers based upon a recommendation from the Chairman of the Commission.

## **Article 3**

### **The Independence of Judges**

Military judges shall be independent. In their judiciary, they shall not be subject to any authority other than that of the law and of their military honour. They may only be dismissed in accordance with the provisions of this Law by Decree.

## **Article 4**

### **The Budget of the Commission**

1. The Commission shall have its own budget, which shall be included as an independent line item within the annual public budget of the State. The provisions of the Law on the Organisation of the Public Budget in force shall be applicable to it.
2. The Board shall be responsible for preparing the draft annual budget and supervise the implementation of its line items.

## **Article 5**

### **The Language of Judicial Proceedings**

The language of military courts and Military Prosecution shall be the Arabic language. The statements of adversary parties or witnesses who are not speakers of the Arabic language shall be heard through a certified interpreter after the administration of the oath.

**Article 6**  
**Guarantees of Defence**

1. Military courts must observe the guarantees of defence, the rights of the accused before them, as well as all relevant international standards. Such courts may not have any jurisdiction beyond military affairs.
2. Any persons who attacks or insults a lawyer by sign, word or threat while the court is in session or in the courthouse shall be liable to the same penalty prescribed against a person who commits such an offence against any member of the court panel.

**Article 7**  
**Entering of Judgements**

1. Judgements shall be rendered and executed in the name of the Arab Palestinian people. They must include the legal reasons upon which they are based.
2. All judgements shall be rendered in public.

**Article 8**  
**Judicial Service**

The service of military judges and members of the Military Prosecution shall be deemed to be actual judicial service for the purposes of holding judicial positions at the regular courts and Public Prosecution.

**Article 9**  
**Offices of the Security Forces Justice Commission**

1. The permanent office of the Commission or its Board shall be in the capital Jerusalem, and temporarily in the cities of Ramallah and Gaza, as the occasion may.
2. Separate buildings shall be designated to military courts and Military Prosecution throughout governorates, provided that they are specially engineered to fit with the nature of judicial work and security conditions.
3. The Military Police shall be responsible for guarding the buildings housing military courts and Military Prosecution and for providing security to judges and members of the Military Prosecution.
4. The Commission shall have its own logo, which shall be exhibited in its offices.

**Title II**  
**Military Courts**

**Article 10**  
**Formations of the Courts**

In pursuance of the provisions of this Law by Decree, military courts of different instances shall consist of:

1. The Central Military Court.
2. The Standing Military Court.
3. The Special Military Court.
4. The Military Court of Appeal.
5. The Field Military Court.

## **Article 11**

### **The Central Military Court**

1. One or more Central Military Court(s) shall be formed, as the occasion may be, of a single judge, the rank of whom is not below a captain, by a decision from the Commander-in-Chief and upon a recommendation from the Chairman of the Commission.
2. The Central Military Court shall be competent of hearing the misdemeanours of military nature committed by the security forces personnel in the rank of first adjutant or below.

## **Article 12**

### **The Standing Military Court**

1. One or more Standing Military Court(s) shall be formed, as the occasion may be, of three military judges, with the rank of its presiding judge not below a major and the ranks of its members not below a captain, by a decision from the Commander-in-Chief and upon a recommendation from the Chairman of the Commission.
2. The Standing Military Court shall have the jurisdiction to hear all offences of military nature, unless a special provision restricts it, provided that the perpetrator is in the rank of a captain or below.
3. The Standing Military Court shall be competent of hearing criminal offences of military nature and misdemeanours associated therewith under a single charging instrument.
4. The Standing Military Court shall convene in its appellate capacity to hear the appealed judgements rendered by the Central Military Court.

## **Article 13**

### **The Special Military Court**

1. One or more Special Military Court(s) shall be formed of a presiding judge and a sufficient number of judges, by a decision from the Commander-in-Chief and upon a recommendation from the Chairman of the Commission.
2. The Special Military Court shall convene before three judges, with the rank of its presiding judge not below a colonel and the ranks of its members not below a major. The number of its panels shall be determined by a decision from the Chairman of the Commission.
3. The Special Military Court shall have the jurisdiction to hear offences of military nature, which are committed by officers in the rank of a major or above.

## **Article 14**

### **The Military Court of Appeal**

1. One or more Military Court(s) of Appeal shall be formed of five judges by a decision from the Commander-in-Chief and upon a recommendation from the Chairman of the Commission. The rank of its presiding judge shall not be below a colonel and the ranks of its members not below a lieutenant colonel. Its convention shall be valid in the presence of three judges.
2. The seat of the Military Court of Appeal shall be in the capital Jerusalem. The Court shall convene on a temporary basis in the cities of Ramallah and Gaza.
3. The Military Court of Appeal shall have the jurisdiction to consider the judgements and decisions rendered by the Standing Military Court in its capacity as the court of first instance and the Special Military Court.
4. The Military Court of Appeal shall apply the provisions and proceedings relating to appeals as provided for under the Law of Penal Procedure in force.
5. Decisions of the Military Court of Appeal shall be subject to review and approval by the Commander-in-Chief or Chairman of the Commission, each within the sphere of his

jurisdiction. Such decisions may be remanded to the court, which rendered the same, for a close review.

### **Article 15**

#### **The Field Military Court**

1. As the occasion may be, Field Military Courts shall be formed by a decision from the Commander-in-Chief of a presiding judge and two members, at least one of them is jurist. The rank of its presiding judge shall not be below a major and the rank of every one of the two members not below a captain, provided that they hold the bachelor degree in law or its equivalent.
2. The Field Military Court shall have the jurisdiction to hear offences of military nature, which are committed in time of war.
3. The Chief Military Prosecutor or his representative shall assume the function of the Military Prosecution before it.
4. The Field Court shall comply with the provisions of the Military Penal Procedure in force. The legal rights of the accused to defend himself shall be observed.

### **Article 16**

#### **The Public Nature and Management of Sessions**

1. The courts shall conduct their trials in public, unless the court decides to conduct them *in camera* to keep public order or in observance of public morals or at the request of one of the parties. In all cases, children or a certain group of people may be prevented from attending the trial.
2. The order and management of the session shall be assigned to the presiding judge of the session.
3. The presiding judge of the court shall have the right to convene court sessions in another location, if circumstances so require.
4. The pronouncement of judgements shall, in all cases, be public.

### **Title III**

#### **Military Judges**

### **Article 17**

#### **Appointment of the Chairman and Deputy Chairman of the Commission and the Required Conditions**

1. The person to be appointed as a Chairman and Deputy Chairman of the Commission shall be required to meet the following:
  - a. The rank of the Chairman of the Commission shall not be below a major general.
  - b. The rank of the Deputy Chairman of the Commission shall not be below a brigadier general.
  - c. To be of Palestinian nationality and to enjoy legal capacity.
  - d. To hold a bachelor degree in law or an equivalent degree from a recognised university.
  - e. Not to have been convicted by a competent court or a disciplinary council of a crime or misdemeanour involving breach of honour or trust even if he has been rehabilitated or included in a special or general amnesty.
  - f. To suspend any political activity he used to engage in before his appointment.
  - g. To have held judicial positions in the Commission or in the Military Prosecution or worked in the legal field in the security forces for a period of no less than fifteen years.

2. The Chairman and Deputy Chairman of the Commission shall be appointed by a decision from the Commander-in-Chief upon a recommendation from the Committee of Officers.

## **Article 18**

### **Powers of the Chairman of the Commission**

The Chairman of the Commission shall exercise the following powers and tasks:

1. Provide judicial and administrative supervision of all staff members of the Commission.
2. Review and endorse definitive judgements in accordance with the law.
3. Chair the Board of the Security Forces Justice Commission.
4. Submit court judgements to the Commander-in-Chief for approval, enclosed with his opinion.
5. Present the budget prepared by the Board to the competent authorities.
6. Approve and submit the regulations and bylaws, which govern the Commission's work, to the competent authorities for issuance.
7. Represent the Commission before local and international bodies and institutions.
8. Approve and submit the annual structure of military courts and Military Prosecutions, which are developed by the Board, to the Commander-in-Chief for approval.
9. Establish internal investigation committees.
10. Any powers prescribed under the laws in force.

## **Article 19**

### **Tasks and Powers of the Deputy Chairman of the Commission**

The Deputy Chairman of the Commission shall perform the following tasks:

1. Assist the Chairman of the Commission in the performance of his tasks. The Chairman of the Commission may authorise some of his powers to him.
2. Perform tasks of the Chairman of the Commission in the event of his absence or in case his is prevented by an obstacle for any reason.

## **Article 20**

### **The Holding of Military Judicial Positions**

Subject to the provisions of the Law of Service in the Palestinian Security Forces in effect, military judicial positions shall be held by a decision from the Commander-in-Chief based upon a recommendation from the Chairman of the Commission, as follows:

1. By means of initial appointment in accordance with the conditions of appointment provided for under this Law by Decree.
2. Appointment from among members of the Military Prosecution.
3. Promotion on the basis of seniority, taking account of experience, competence and training courses.

## **Article 21**

### **Conditions of Appointment in the Military Judicial Position**

A person to be appointed as a military judge shall be required to meet the following conditions:

1. To be of Palestinian nationality and to enjoy legal capacity.
2. To hold a bachelor degree in law or an equivalent degree from a recognised university.
3. Not to have been convicted by a competent court or a disciplinary council of a crime or misdemeanour involving breach of honour or trust even if he has been rehabilitated or included in a special or general amnesty.
4. To pass the prescribed competition successfully.
5. To attend a military training course.

6. To enjoy necessary medical fitness.
7. To suspend any political activity he used to engage in before his appointment.

## **Article 22**

### **Conditions for the Appointment of Court Judges**

1. A person to be appointed as a judge at the Central Military Court shall be required to have worked at the Military Prosecution or in the legal field for a period of at least three years.
2. A person to be appointed as a judge at the Standing Military Court shall be required to have worked as a judge at the Central Military Court or at the Military Prosecution for a period of at least five years.
3. A person to be appointed as a judge at the Special Military Court shall be required to have worked as a judge at the Standing Military Court or at the Military Prosecution for a period of at least seven years.
4. A person to be appointed as a judge at the Military Court of Appeal shall be required to have worked in the field of military justice for a period of at least twelve years or at the Military Prosecution for fifteen years.

## **Article 23**

### **Administration of the Oath**

1. Prior to commencing their functions, military judges must make the following legal oath: "I hereby swear by the Almighty God to rule with justice and to respect the Constitution and Law".
2. The Chairman, Deputy Chairman of the Commission and Presiding Judge of the Court of Appeal shall make the legal oath before the Commander-in-Chief.
3. Judges of different grades shall make the legal oath before the Chairman of the Commission.

## **Article 24**

### **Delegation, Transference and Secondment**

1. It shall be prohibited to transfer or delegate the military judge for a position other than military justice except with his written consent and by a decision from the Commander-in-Chief and upon a recommendation from the Board.
2. The military judge shall be seconded or delegated to work outside the Commission on a temporary basis for a period that does not exceed three years by a decision from the Commander-in-Chief and upon a recommendation from the Board.
3. Transference of military judges within different military judicial positions shall be conducted by a decision from the Board.

## **Article 25**

### **Delegation in the Interest of Work**

In the interest of work, judges shall be delegated by a decision from the Board in the following manner:

1. A judge of the Central Military Court shall be delegated temporarily to work at the Standing Military Court for a period of no more than six months during a single year.
2. A judge of the Standing Military Court shall be delegated temporarily to work at the Special Military Court or Military Court of Appeal for a period of no more than six months during a single year.
3. A judge of the Special Military Court shall be delegated temporarily to work at the Military Court of Appeal for a period of no more than six months during a single year.

## **Article 26**

### **The Vacant Position of the Presiding Judge of the Military Court**

In the event the position of the presiding judge of any military court is vacant, the sessions shall be presided by the judge with the highest rank. In the event the ranks of senior judges if equal, if the position of a member of the court is vacant, a military judge shall be delegated by a decision from the Board.

## **Article 27**

### **Recusal of Judges**

1. The military judge may be recused from hearing the case in the event one of the following reasons is available:
  1. If the act is committed against him in person.
  2. If he carried out an act of investigation into the case under consideration.
  3. If he is a relative by blood or marriage of an adversary party up to the fourth degree.
  4. If he is a witness or a lawyer of an adversary party or has performed an act of experience in relation thereto or is an arbiter.
  5. If his/her spouse or a relative by blood or marriage up to the fourth degree has an interest in the case.
2. The judge must recuse himself from hearing the case *sua sponte* in the event a reason of those provided for under Paragraph 1 of this Article is in place.
3. In the event the judge does not recuse himself *sua sponte*, the adversary parties shall be entitled to submit the request for recusal to the Chairman of the Commission. The decision on the disposition thereof shall be final. The proceedings that preceded the recusal shall be deemed to be void.
4. The judge, in the event he felt embarrassed by hearing the case, may recuse himself after he submits a request to the Chairman of the Commission.

## **Title IV**

### **Judicial Departments**

## **Article 28**

### **The Technical Office**

A technical office shall be established, reporting to the Chairman of the Commission. It shall be headed by a judge whose rank is not below a lieutenant colonel. He shall be assisted by a number of judges, who are appointed by a decision from the Board. It shall be competent of the following:

1. Extract judgements and derive legal principles, which are approved by the Military Court of Appeal in the judgements it renders.
2. Develop and publish necessary judicial and legal research.
3. Assist the Chairman and Deputy Chairman of the Commission in any judicial or other legal matters.

## **Article 29**

### **Judicial Inspection**

1. A department for the inspection of military judges and members of the Military Prosecution shall be established and report to the Chairman of the Commission. It shall be directed by a judge, whose rank is not below a colonel, who shall be assisted by a number of judges by a decision from the Board.



2. The Board shall set forth a bylaw for the Inspection Department, outlining the jurisdictions, rules and procedures needed for the performance of its function and for the assessment of competence.

### **Article 30**

#### **Inspection Reports**

The Inspection Department shall exercise its powers of inspecting court judges and members of the Military Prosecution at least once a year. The inspection report on the competence and validity for work of the military judge or member of the Military Prosecution shall be deposited with the Chairman of the Commission, provided that the judge shall be informed of the content of the report.

### **Article 31**

#### **Notification of the Inspection Results**

1. The Chairman of the Commission shall address a written notice to the military judge or member of the Military Prosecution, whose competence has been assessed by the grade of average or below average. The notified party shall have the right to complain within fifteen days from the date, on which the notice was addressed to him, by means of a petition he submits to the Chairman of the Commission.
2. The Chairman of the Commission must handle the complaint within one month from the date on which the petition was filed after reviewing the papers and hearing the complainant.
3. If it appears to the Chairman of the Commission that the inspection report relating to the military judge or member of the Military Prosecution, who received an assessment of competence of below average more than once, is valid, he shall be entitled to decide to present him the Board for a recommendation to transfer him to a non-judicial position by a decision from the Commander-in-Chief.

### **Title V**

#### **Support Departments**

### **Article 32**

#### **Criminal Records Department**

A Criminal Records Department shall be established within the Commission. It shall be directed by an officer, whose rank is not below a captain, and a number of officers who are appointed by a decision from the Chairman of the Commission. It shall be competent of work and cooperation with relevant official authorities.

### **Article 33**

#### **Support Departments**

The Chairman of the Commission shall be entitled to establish departments, when necessary, with relevance to the work of the Commission in order to carry out the functions provided for under the decision on its establishment.

### **Article 34**

#### **Appointment of Administrative Staff and Clerks**

A sufficient number of officers, administrative staff, and clerks shall be appointed to every military court, Military Prosecution office, or technical department. Their duties shall be determined in accordance with the law. They shall be subject to the provisions of the Law of Service in the Security Forces or Law of Civil Service in force, each as per his capacity.

**Article 35**  
**The Code of Conduct**

A code of judicial conduct shall be issued forth by the Board and shall be applicable to military judges and members of the Military Prosecution.

**Article 36**  
**The Official Uniform**

The Board shall decide on the uniform of the military judges and members of the Military Prosecution.

**Title VI**  
**The Military Prosecution**

**Article 37**  
**The Appointment and Powers of the Chief Military Prosecutor**

1. The Military Prosecution shall be headed by a Chief Prosecutor, whose rank is not below a brigadier general.
2. The Chief Military Prosecutor shall be appointed by a decision from the Commander-in-Chief upon a recommendation from the Committee of Officers.
3. A person to be appointed as a Chief Military Prosecutor must have held a judicial position at the military court, Military Prosecution, or legal field in the security forces for a period of no less than fifteen years.
4. The Chief Prosecutor shall make the legal oath before the Commander-in-Chief in the presence of the Chairman of the Commission.
5. In the event the Chief Military Prosecutor is absent or prevented by an obstacle for any reason, his tasks shall be assumed by his most senior assistant, then the more senior from among members of the Military Prosecution.

**Article 38**  
**Tasks of the Chief Prosecutor**

The Chief Military Prosecutor shall exercise the following tasks and powers:

1. Chair the Military Prosecution and exercise his powers by supervising its members. He shall be entitled to propose the structures of the Military Prosecution and issue forth instructions in relation to the functions of the Prosecution.
2. Institute and initiate criminal proceedings either by himself or through a member of the Military Prosecution in accordance with the provisions of the law.
3. Institute disciplinary actions against military judges or members of the Military Prosecution in accordance with the provisions of the law.
4. Represent the Military Prosecution before the Military Court of Appeal or deputise one of his assistants or head of prosecutor's district office in accordance with the provisions of the law.
5. Submit a request for retrial to the Chairman of the Commission or deputise one of his assistants in accordance with the provisions of the law.
6. Submit a request for rehabilitation to the Chairman of the Commission or deputise one of his assistants in accordance with the provisions of the law.
7. Any other powers in accordance with the provisions of this Law by Decree or relevant laws.

### **Article 39**

#### **The Appointment of Assistants to the Chief Military Prosecutor and Members of the Military Prosecution**

1. In addition to the conditions prescribed under Article 21 of this Law by Decree, a person to be appointed at the Military Prosecution shall be required to meet the following:
  - a. An assistant to the Chief Military Prosecutor: To have spent a period of no less than ten years in military justice or at the Military Prosecution with a rank not below a major.
  - b. A head of military prosecutor's district office: To have spent a period of no less than five years in military justice or at the Military Prosecution with a rank of not below a captain.
  - c. A military prosecutor: To have spent a period of no less than three years in military justice or at the Military Prosecution with a rank of not below a first lieutenant.
  - d. A military prosecutor's assistant: To have spent a period of no less than three years in military justice or at the Military Prosecution. He shall be required to hold a licence to practice the legal profession and to have passed the competition successfully.
2. The Assistants to the Chief Military Prosecutor, heads of military prosecutor's district offices, prosecutors, and prosecutors' assistants shall be appointed by a decision from the Commander-in-Chief upon a recommendation from the Chief Military Prosecutor and based upon a nomination from the Chairman of the Commission.
3. The Chief Military Prosecutor shall be assisted by one or more, and not exceeding, three assistants.
4. Members of the Military Prosecution of different ranks shall make the legal oath before they commence their tasks before the Chairman of the Commission and Chief Military Prosecutor.

### **Article 40**

#### **Transference and Delegation of Members of the Public Prosecution**

1. It shall be prohibited to transfer or delegate members of the Military Prosecution except in the cases described under Article 24 of this Law by Decree and upon approval of the Chief Military Prosecutor.
2. Transference, delegation or secondment of the Chief Military Prosecutor shall be conducted by a decision from the Commander-in-Chief.

### **Article 41**

#### **Supervision of Detention Centres**

1. The Military Prosecution shall be responsible for supervising military places of detention and correction and rehabilitation centres in accordance with the provisions of the law.
2. The Chairman of the Commission and presidents of military courts shall inspect military places of detention and correction and rehabilitation centres.

### **Title VII**

#### **Common Provisions**

#### **Duties and Prohibited Acts for Military Judges and Members of the Military Prosecution**

### **Article 42**

#### **Prohibited Acts**

In addition to the provisions of the effective Law of Service in the Security Forces, military judges and members of the Military Prosecution shall be prohibited from:

1. Revealing the secrets of deliberations and investigation procedures while they perform their function.
2. Exercising political action.
3. Carrying out any commercial activity.
4. Holding any position in a charitable, sports or other association.
5. Running for the elections of the Presidency of the State of Palestine, Legislative Council, councils of local government units, or political organisations.
6. Being members of the board of directors of any companies, a cooperative or charitable association, or a professional union.

#### **Article 43**

##### **Duties of Military Judges and Members of the Military Prosecution**

1. Each military judge or member of the Military Prosecution must submit, upon his appointment, a financial disclosure statement for themselves, their spouse and their minor children that details all that they own, including real estate, movable properties, shares, bonds and cash money inside and outside Palestine, as well as the debts they owe, to the Chairman of the Commission.
2. The Chairman of the Commission shall put forward necessary procedures to maintain the confidentiality of financial disclosure statements and submit the same to the relevant authorities at the Anti-Corruption Commission. Any private information may only be accessed by a permission from the Chairman of the Commission or based upon a decision from the legally competent authorities.

#### **Article 44**

##### **Integrity of Judges**

The military judge or member of the Military Prosecution must maintain his independence by himself and refrain from accepting any interference with or mediation in the cases heard by him.

#### **Title VIII**

##### **Judicial Immunity**

#### **Article 45**

##### **Provisions on the Arrest of Members of the Justice Commission**

1. In cases other than *flagrante delicto*, the military judge or member of the Military Prosecution may not be arrested or confined except after a permission is obtained from the Chairman of the Commission.
2. In the cases where the military judge or member of the Military Prosecution is caught *in flagrante delicto*, the Chief Military Prosecutor must refer the matter to the Chairman of the Commission within twenty four hours.
3. Upon a permission from the Chairman of the Commission, the Chief Military Prosecutor shall be entitled to decide, after hearing the statements of the arrested, to release or continue to detain him for the period determined by the Military Penal Procedure Law in force.
4. The military judge or member of the Military Prosecution shall be detained and the penalty imposed on him a place that is separate from the places designated for other sentenced persons.
5. Any procedure of arrest and penal and disciplinary accountability may only be initiated against the Chairman of the Commission and Chief Military Prosecutor by a written decision from the Commander-in-Chief and upon the establishment of a special

committee by him to submit the investigation results and its recommendations regarding referral to the competent court.

#### **Article 46**

##### **Chairman of the Commission's Competence of Detention**

1. Military judges and members of the Military Prosecution shall be detained, have their detention extended, or confined, by a permission from the Chairman of the Commission based upon a request from the Chief Military Prosecutor, unless the case is being heard by a competent penal court.
2. Detention of the military judge or member of the Military Prosecution shall result in his immediate suspension from the duties of his judicial office.
3. Subject to the provisions of Article 45 of this Law by Decree, the penal case may only be instituted against the military judge or member of the Military Prosecution by a permission from the Chairman of the Commission.

#### **Title IX**

##### **Disciplinary Penalties**

#### **Article 47**

##### **Admonition**

1. The presiding judge of each court shall be entitled to impose the penalty of admonition by means of a reasoned decision on any judges at the court, and the Chief Military Prosecutor shall be entitled to impose the same penalty on members of the Military Prosecution, if any one of them breaches his professional duties, is reluctant to perform the same, or behaves in a manner that violates professional dignity.
2. The military judge or member of the Military Prosecution, on whom the penalty provided for under Paragraph 1 of this Article has been imposed, shall have the right to file a written complaint to the Chairman of the Commission within ten days from the date, on which the penalty of admonition was notified on him. The Chairman of the Commission or the person he authorises shall handle the complaint within two weeks from the date on which the complaint was filed after hearing the statements of the complainant. The grade of the authorised judge shall be higher than that of the complainant.
3. The decision issued forth by the Chairman of the Commission on the penalty of admonition shall be reasoned and final. The disciplinary penalty shall not effect on the penal or civil case arising from the incident itself.
4. In case the penalty of admonition is addressed more than once to the military judge or member of the Military Prosecution within six months, the Chairman of the Commission may refer the military judge or member of the Military Prosecution to the disciplinary council in pursuance of the provisions of this Law by Decree.

#### **Article 48**

##### **The Disciplinary Council**

The discipline of military judges and members of the Military Prosecution shall fall within the jurisdiction of a disciplinary council, which consists of three judges and is established by the Board. Their ranks shall not be below that of the one referred to the Disciplinary Council.

#### **Article 49**

##### **The Disciplinary Action**

1. The disciplinary action shall be instituted against military judges or members of the Military Prosecution based upon a request from the Chairman of the Commission after a

criminal investigation is launched or based upon an investigation conducted by the specialised investigation committee.

2. The prosecution before the Disciplinary Council shall be represented by the Chief Military Prosecutor or one of his assistants.
3. The disciplinary action shall be instituted in line with an instrument, stating the charge concluded by the investigations. It shall be submitted to the clerk of the Disciplinary Council.

## **Article 50**

### **Proceedings before the Disciplinary Council**

1. The military judge or member of the Military Prosecution shall be assigned to attend on the time allotted by the Disciplinary Council. The assignment must include a full statement of the merits of the disciplinary action and evidence for the prosecution, and shall be handed to him.
2. The Disciplinary Council may suspend the military judge or member of the Military Prosecution from his position until the trial is completed.
3. Sessions of the disciplinary trial shall be held *in camera* unless the military judge or member of the Military Prosecution requests that they be made public .
4. The military judge or member of the Military Prosecution shall have the right to retain a counsel to defend him.

## **Article 51**

### **Disciplinary Penalties**

Notwithstanding the provisions of the Law of Service in the Security Forces in effect, the Disciplinary Council shall have the right to issue forth a decision on the following disciplinary penalties:

1. Admonition.
2. Reprimand.
3. Dismissal.

## **Article 52**

### **Approval of the Penalty of Dismissal**

1. The Chairman of the Commission shall submit the decision on the penalty of dismissal, in conjunction with his opinion, to the Commander-in-Chief for approval. The dismissed military judge or member of the Military Prosecution shall be deemed to be on leave until the decision on dismissal is effective as from the date of its issuance.
2. The decision issued on the dismissal of the judge shall not influence his rights to pension or honorarium, unless the decision provides otherwise.

## **Title X**

## **Article 53**

### **Judicial Cooperation**

The Security Forces Justice Commission shall be entitled to cooperate with non-Palestinian judicial bodies in relation to the request of mutual legal aid, judicial representations, extradition of criminals, freezing or provisional attachment of assets or proceeds derived from criminal offences, which fall within the jurisdiction of the Security Forces Justice Commission, in accordance with the laws in force in Palestine and the bilateral or multilateral agreements, to which Palestine is a party.

#### **Article 54**

##### **The Salaries of Military Judges and Members of the Military Prosecution**

1. Notwithstanding the provisions of the Law of Service in the Security Forces, 50% shall be added to the basic salary earned by the military judges and members of the Military Prosecution, who are on duty, within the structure of the Justice Commission, in line with Table 1 annexed to this Law by Decree.
2. The military judge or member of the Military Prosecution shall lose the addition provided for under Paragraph 1 of this Article in the event he abandons the judicial position or his membership of the Military Prosecution for any reason whatsoever.

#### **Article 55**

##### **Regulation of Incentives and Honoraria**

The Board shall be responsible for developing a regulation to determine the incentives and honoraria for distinguished military judges and members of the Military Prosecution, provided that they are disbursed from the budget of the Justice Commission and included on its line items.

#### **Article 56**

##### **Enforcement of the Law of Service in the Security Forces and Relevant Laws**

Without prejudice to the provisions of this Law by Decree, military judges, members of the Military Prosecution, and the rest of staff members of the Commission shall be subject to the provisions of this Law by Decree, operative Law of Service in the Security Forces, regulations issued forth in accordance with them, any other amendments introduced to them, and any laws with relevance to judicial functions.

#### **Article 57**

##### **Leaves**

1. Military judges and members of the Military Prosecution shall have a judicial leave that commences each year from the middle of the month of July and expires at the end of the month of August.
2. The annual leave of the military judge and member of the Military Prosecution may not exceed thirty five days.
3. During the judicial leave, military courts shall continue to hear the urgent matters, the scope and types of which the Chairman of the Commission shall identify.
4. Military judges and members of the Military Prosecution shall be entitled to a sick leave in accordance with the relevant provisions of the Law of Service in the Security Forces.

#### **Article 58**

##### **The Expiration of Service**

Notwithstanding the provisions of the Law of Service in the Security Force or any other piece of legislation:

1. The service of the military judge shall expire when he completes sixty five years of age, and the member of the Military Prosecution when he attains sixty years of age. Extension may be granted to them for a maximum of another three years that are renewable annually, upon a request from the Chairman of the Commission and approval of the Commander-in-Chief.
2. The retirement pension or severance pay shall be settled on the basis of the last salary the military judge and member of the Military Prosecution earned in accordance with the provisions of the law.

3. The Chairman of the Commission and Chief Military Prosecutor shall maintain, after they are retired on pension, all the privileges granted to them under this Law by Decree or any other laws and administrative decisions.

### **Article 59**

#### **Bylaws**

1. The Board shall develop the regulations and bylaws needed to enforce the provisions of this Law by Decree, provided that they are issued forth by the Council of Ministers.
2. The Chairman of the Commission or Chief Military Prosecutor shall be entitled to issue forth the instructions needed to enforce the provisions of this Law by Decree, each according to his jurisdiction.

### **Article 60**

#### **Presentation to the Legislative Council**

This Law by Decree shall be presented to the Legislative Council in the first session it convenes for approval.

### **Article 61**

#### **Repealing**

All provisions that contradict the provisions of this Law by Decree shall be repealed.

### **Article 62**

#### **Enforcement and Entry into Effect**

All the competent authorities, each one within its sphere of jurisdiction, shall implement the provisions of this Law by Decree, which shall enter into force thirty day after its publication in the Official Gazette.

**Promulgated in the city of Ramallah on January 15<sup>th</sup>, 2018 *Anno Domini*,  
Corresponding to Rabee' al-Thani 28<sup>th</sup>, 1439 *Anno Hegira*.**

**Mahmoud Abbas**

**President of the State of Palestine**

**Chairman of the Executive Committee of the Palestine Liberation Organisation**



**Table 1**

**The Salary Scale of Military Judges and Members of the Military Prosecution Working at the Palestinian Security Force Justice Commission**

<b>Rank</b>	<b>Basic salary</b>	<b>Percentage of the nature of work</b>
<b>General</b>	6630	<b>80%</b>
<b>Major General</b>	6030	<b>70%</b>
<b>Brigadier General</b>	5430	<b>60%</b>
<b>Colonel</b>	4980	<b>50%</b>
<b>Lieutenant Colonel</b>	4230	<b>40%</b>
<b>Major</b>	3855	<b>30%</b>
<b>Captain</b>	3435	<b>25%</b>
<b>First Lieutenant</b>	3135	<b>25%</b>
<b>Lieutenant</b>	2940	<b>20%</b>

- Deductions on salary shall be applied in accordance with the laws in force in the security forces.
- A periodic increment of one and a quarter percent of the basic salary shall be approved for all ranks in the table above for each year of service.