

The legislation classification:

Al-Waqai'a Al-Iraqia number: 2746

Al-Waqai'a Al-Iraqia date: December 17, 1979

Law number: 160

Law name: Judicial Organization

Resolution number: 1724

Resolution date: December 10, 1979

Pursuant to the provisions of paragraph (a) of Article forty two of the constitution the Revolution Command Council has decided to issue the following law:

**Number (160) of 1979
Judicial Organization Law**

**Part One
Basic Principles**

**Chapter One
Bases of the Law**

Article 1

The Judicial Organization Law aims at the following:

First: Organizing the judiciary in a way that achieves justice with a spirit that encompasses the nature of the economic and social transformations during the socialist building stage of the country.

Second: Preparing a judiciary that is capable of encompassing the revolutionary legislations and decisions and implementing the laws by following the revolution spirit with a mentality concurrent with the socialist goals.

Article 2

First: The judiciary is independent and no power shall be above the judiciary except the Law.

Second: In protocols, the position of the judge shall be determined, in the official occasions, in a way that suits the noble position of the judiciary pursuant to regulations issued by the appropriate authority. (1)*

Article 3

The judiciary shall govern all public and private natural and judicial person, except those who were exempted by a special provision.

Article 4

First: The Arabic language shall be the language of the courts, unless the law stipulates otherwise.

Second: The Court shall hear the litigants, witnesses or experts who can not speak the language of the court through an interpreter who shall be swan in.

Article 5

Court sessions should be public, unless the court decides to make it secret. Public order, abiding the court decorum or the sanctity of the family shall be maintained. The judgment shall be recited publicly.

Article 6

Judgments shall be issued and implemented in the name of the people.

Chapter Two Duties of the judge

Article 7

The judge shall observe the following:

First: Maintain the judiciary dignity and stay away from anything that raises suspicions in its integrity.

Second: Keep secret matters, information and documents the judge become familiar with can be aware due to his position or through it if these matters, information and documents were secret in nature, or fears to disclose because it may damage to the state or the persons. This duty shall stand even after the end of his service.

Third: Not to practice trading or any other work that is not suitable with the judiciary position.

Fourth: Reside at the administrative unit center where his work headquarters located, except when permitted by the Minister of Justice to reside elsewhere for circumstances understood by the Minister.

Fifth: Wear the specified uniform during the trial in accordance with instructions issued by the Minister of Justice.

Article 8

Affinity and kinship to the forth level shall be prohibited between judges participated in one judiciary council. And it is prohibited for the judge to consider an appeal of a sentence issued by another judge who has said relationship.

**Chapter Three
Extent of the Enforcement of the law**

Article 9

This law shall enter into force in all courts that are governed by its provisions and on all judges working in these courts.

Article 10

The judiciary shall not consider every matter that is deemed a sovereignty matters.

**Part Two
Judiciary Formations**

**Chapter One
Types of Courts**

Article 11

The types of courts shall be as follows:

First: Court of Cassation

Second: Courts of Appeal

Third: Courts of First Instance

Fourth: Administrative Courts. Cancelled (2)*

Fifth: Personal Status Courts

Sixth: Felony Courts

Seventh: Misdemeanor Courts

Eighth: Juveniles Courts

Ninth: High Labor Courts and Labor Courts

Tenth: Investigation Courts

**Chapter Two
Courts Jurisdictions**

**Section One
Court of Cassation**

Article 12

The Cassation Court is the higher judicial body that practices the judicial monitoring over all courts unless the law stipulates otherwise. It shall consist of a president and five deputies as well as judges with an overall number of not less than thirty. Its headquarters shall be in Baghdad.

Article 13

First: The Cassation Court's bodies shall be as follows:

- A. **The General Body:** It shall convene under the presidency of the Cassation Court president or his senior deputy in case of his absence or the existence of a legal prohibition of his participation, and the membership of his deputies and all judges of the Cassation Court. This body shall have jurisdiction to consider the following:
1. What shall be referred to it by one of the other bodies if the body wanted to forgo a principle decided by previous judgments?
 2. Cases in which death sentence were issued.
 3. Settlement of a dispute resulting from a contradiction in the judgments and decisions issued by the Cassation Court.
- B. **Expanded Body:** It shall convene under the presidency of the Cassation Court president or his senior deputy in case of his absence or the existence of a legal prohibition of his participation, and the membership of at least six of its judges. This body shall have jurisdiction to consider the following: (3)*
1. Dispute resulting in regard to how to execute two incompatible judgments that acquired the final level issued for one subject whether if it was between the litigants themselves or if one of them was a party in these two judgments, this body shall give preponderance to one of the judgments and decides to implement it and stop the other judgment. The president of the Cassation Court shall have the right to stop the implementation of the two incompatible judgments until the issuance of the cassation resolution.
 2. Dispute resulting in regard to how to determine the competence in considering the case that takes place between two courts.

3. Judgments and decisions referred to it by the court's president that take place within the competence of the court and pursuant to the law which these judgments and decisions have been issued.
- C. **Civil Body:** It shall be specialized in considering judgments and decisions issued in civil cases and other distinct articles that were issued in accordance with the provisions of the law.
- D. **Personal Status Body:** It shall be specialize in considering judgments and decisions issued by the Personal Status Courts pursuant to the provisions of the law.
- E. **Cancelled** (4)*
- F. **Criminal Body:** It shall be specialized in considering judgments and decisions issued in criminal cases pursuant to the provisions of the Law.

Second: The Civil Body, Personal Status body and the Criminal body shall convene under the presidency of the deputy president or the person chosen by the presidency body and the membership of at least two judges of the court (5)*.

Third: The Civil body shall convene under the presidency of the deputy president and the membership of at least four judges when considering the judgments issued by the Courts of appeal, and the same applies to the Criminal body when considering judgments and decisions issued by the Criminal Courts in its original capacity.

Fourth:

- A. Multiplicity of Bodies is permissible as well as the establishment of other bodies pursuant to a decision by the presidency body.
- B. The presidency body shall be made up of the president of the Court of Cassation and his deputies. In case of the absence of one of them, the senior court judges shall replace him.

Article 14

First: Presidents of the bodies shall be chosen at the beginning of every year pursuant to a decision by the presidency and in case of his absence the senior court judges shall replace him

Second: Boards will be formed, including the expanded board, by a Presidency Board decision, at the beginning of every year. A member of the board shall not be replaced unless necessity dictates it, and in the same way.

Article 15

First: The Court of Cassation President authorities are:

- A. Court administration.
- B. Heading the Presidency Board.

- C. Presiding over the general board, the expanded board, or any of the boards of the Court of Cassation.
- D. Inspecting the work of the Court Cassation.
- E. Referral of appeals that are forwarded to the Court for collecting fees and trusts, and registering them.
- F. Granting leaves to the Court judges, employees, and workers.
- G. Writing annual reports about employees.
- H. Signing official correspondence to the ministries.

Second: The Court of Cassation Deputy President authorities are:

- A. To assume the functions of the Court of Cassation President during his absence.
- B. Presiding over one of the court of cassation boards.
- C. Participation in the Presidency Board.
- D. Signing letters of returning settled cases files and attaching the court of cassation decisions.
- E. Any other authorities that the president shall authorize.

Section two Court of Appeals

Article 16

First: The Court of Appeal is a highest judicial body of the courts of one or more governorates. It consists of a president and an adequate number of deputy presidents and judges. It assumes jurisdictions specified to it according to the law.

Second: Courts of Appeal are formed as follows:

- A. Baghdad area Court of Appeal /Al-Rasafa, affiliated to it are Baghdad Governorate courts and the courts of administration units that are part of Baghdad governorate located east of the Tigris River.
- B. Baghdad area Court of Appeal /Al-Karkh, affiliated to it are Baghdad Governorate courts and the courts of the administration units that are part of Baghdad governorate located west of the Tigris River.
- C. Basra area Court of Appeal, which includes Basra and Maysan Governorates courts; its center is at the city of Basra.
- D. Nineveh area Court of Appeal, which includes the Nineveh Governorate court; its center is at Mosul city.
- E. Babel area Court of Appeal, which includes Babel and Karbala Governorates courts; and its center, is at the city of Hilla.
- F. Al-Ta'meem area Court of Appeal, which includes Al-Ta'meem Governorate courts; its center is at Kirkuk city.
- G. Autonomy Region Court of Appeal, which includes Irbil, Suleimaniyya, and Duhok Governorates' courts; its center is at Irbil city.
- H. Dhi-Qar area Court of Appeal, which includes Dhi-Qar and Al-Muthanna Governorates' courts; its center is at the city of Nassiriyya.

- I. Al-Najaf area Court of Appeal, which includes Al-Najaf and Al-Qadisiyya Governorates' courts; its center is at the city of Najaf.
- J. Al-Anbar area Court of Appeal, which includes Al-Anbar Governorate courts; its center is at the city of Ramadi
- K. Wassit Court of Appeal- It shall include courts of Wassit Governorate and shall be headquartered in Kut City. *(9)
- L. Salaheldin Court of Appeal – To which the courts of Salaheldin Governorate shall be connected and shall be headquartered in Tikrit City *(10)
- M. Diyala Court of Appeal - To which the Diyala Governorate courts shall be connected and shall be headquartered in Baqouba City. *(11)

Third: One or more court may be disengaged from a Court of Appeal and attached to another Court of Appeal pursuant to a proposal by the Minister and a resolution by the Council of Justice. In addition, new Courts of Appeal may be cancelled or created in a Presidential decree based on a proposal by the Minister.

Article 17

First: A Court of Appeal and its bodies shall be convened headed by its president or one of his deputies, and the membership of two of his deputies, or one of them and a judge of the Court of Appeal or the membership of two of its judges.

Second: The president and members of Court of Appeal and its bodies shall be nominated pursuant to a decision issued by the Minister of Justice based on a proposal from the president of the Court of Appeal. The president or member may not be replaced unless it is required based on urgent need.

Article 18

The president of Court of Appeal shall undertake the responsibility of supervising the courts and its work within his area and the distribution of work amongst its judges. The president shall have the right to delegate any of his authorities to one of his deputies.

Article 19

First: A council shall be established in each appellate region and shall be called (The Appellate Region Council). This council shall be made up of the president of the court, and the membership of his deputies and the judges of the Court of Appeal.

Second: The council shall at least convene once every month. The president may convene the council when the need arises. This council shall not convene without the presence of at least three quarters of its members.

Third: The council shall practice the following competencies:

- A. Study and resolve the difficulties and problems that confront the courts, or submit proposals for its resolution to the Ministry of Justice.

- B. Examine the needs and staff of the courts in the light of the annual statistics.
- C. Submit proposals regarding the creation of different courts.
- D. Improve the work styles and boost the level of performance in the courts.

Article 20

First: The powers of the president of the Court of Appeal shall be as follows:

- A. Oversee the administrative matters and distribute the work within his region.
- B. Preside over the Appellate Region Council.
- C. Preside over the Court of Appeal in its cassation capacity. He may preside the Court of Appeal in its exceptional capacity or the Criminal Court.
- D. Refer appeals submitted to the Court of Appeal according to its appellate and cassation capacity in order to collect the fees and deposits.
- E. File annual reports on the judges and employees.
- F. Signing official correspondences.
- G. Grant leaves to the judges, employees and workers of the court.

Second: The powers of the Court of Appeal deputy president shall be as follows:

- A. Perform the duties of the president of the Court of Appeal during the president's absence.
- B. Presides over one of the boards of the Court of Appeal or the Criminal Court.
- C. Sign the letters with which returning the files of settled claims accompanied with the decisions of the Court of Appeal to its Competent Court.
- D. Monitor the office hours of the judges, employees and workers.
- E. Other powers authorized granted by the president of the Court of Appeal.

Section Three Court of First Instance

Article 21

First: One or more Court of First Instance shall be formed in the center of each governorate or district. They may be formed at communes pursuant to a decision issued by the Minister of Justice. The Minister may expand the Court's territorial jurisdiction to more than one district or commune.

Second: The Minister of Justice may cancel a Court of First Instance in the districts and communes if he deems that the public interest requires such action.*(12)

Article 22

Based on a proposal by the Court of Appeal president, the Minister of Justice may establish a Court of First Instance in order to consider one type or more of claims.

Article 23

The Court of First Instance shall convene with one judge and shall be competent to consider claims and issues within its jurisdiction in accordance with the provisions of the law.

**Section Four
Administrative Court**

Article 24 Nullified *(13)

Article 25 Nullified *(14)

**Section Five
Court of Personal Status**

Article 26

One or More Court of Personal Status or more shall be established in every region in which a Court of First Instance exists.

Article 27

Based on a proposal by the Court of Appeal president, the Minister of Justice may establish a Court of Personal Status to consider one or more type of lawsuits.

Article 28

First: A Court of Personal Status shall convene with one judge and shall be competent to consider issues of personal status in accordance with the provisions of law.

Second: The (Muslim) judge of the Court of First Instance shall be deemed a judge of the Court of Personal Status if it has no special judge.

Section Six Criminal Court

Article 29

First: A criminal court shall be established in the center of each governorate to consider criminal lawsuits assigned to it in accordance with the provisions of law.

Second: More than one criminal court may be established in the governorate pursuant to a decision issued by the Minister of Justice in which the minister determines its territorial and qualitative jurisdiction and its convention center.

Third: The Criminal Court may convene outside the governorate center according to a statement issued by the president of the Court of Appeal on the basis of a proposal from the president of the Criminal Court.

Article 30

First: The Criminal Court shall convene in the center of the Court of Appeal with three judges headed by the president of the Court of Appeal or one of his deputies, and the membership of two other deputies or one of them and a judge, or the membership of two judges who are of a class not less than the second class.

Second: The Criminal Court shall convene in other governorates under the presidency of the deputy president in the center of the governorate, and the membership of two judges who are of a class not less than the second class.

Third: The original and reserve president and members of the Criminal Court shall be named pursuant to a decision issued by the Minister of Justice based on a proposal by the president of the Court of Appeal.

Section Seven Misdemeanors Court

Article 31

First: One or more Misdemeanors Court may be established in every region in which a Court of First Instance exists and shall consider lawsuits assigned to it in accordance with the provisions of law.

Second: Misdemeanors Court shall convene with one judge.

Third: Judge of the Court of First Instance shall be deemed a judge of the Misdemeanors Court if it has no special judge.

Article 32

Based on a proposal by the president of the Court of Appeal, the Minister of Justice may establish a Misdemeanors Court in order to consider one or more type of lawsuits.

Article 33

First: The Juvenile Court shall be convened by a committee under the presidency of the Juvenile Court judge and the membership of two arbitrators. It shall consider the felonies and issue its judgments in accordance with the Juvenile Law.

Second: The president of the committee and the original and reserve arbitrators shall be named in a statement to be issued by the Minister of Justice in accordance with a proposal from the president of the Court of Appeal.

Third: Offences and misdemeanors shall be considered only by the Juvenile judge in accordance with the provisions of the Juveniles law.

Section Nine Labor Courts

Article 34

Labor Courts shall be made up of:

First: Labor Courts in the governorates and the High Labor Court.

Second: Labor Courts shall consider cases and affairs within its jurisdiction in accordance with the law.

Section Ten Investigation Court

Article 35

First: One investigation court or more shall be formed in each location that has a Court of First Instance. The judge of the Court of First Instance shall be the investigative judge, unless a special judge is appointed to it. Investigations shall be conducted in accordance with law.

Second: The Minister of Justice, in accordance with a proposal from the president of the Court of Appeal, may specify an investigation court for a certain type or types of crimes.

Third: The Minister of Justice may form a committee under the presidency of a judge to investigate a crime or certain crimes. This Committee shall have the power of the investigative judge.

Part Three
The Judicial Position

Chapter One
The Judicial Service

Section One
Appointing Judges

Article 36

First: Whoever is appointed as a judge, after this law comes into force, must be Iraqi by birth and of Iraqi parents by birth and of a non-foreign origin, married and a graduate of the Judicial Institute?

Second: The Salary of the graduate from the Judicial Institute is 70 Dinars a month, if she/he passed the minimum limit of the service or practice that qualified him/her to be accepted in the Institute. Any increases shall be calculated for the purpose of increment and promotion. The salaries of the judges graduated from the Judicial Institute shall be amended before this law comes into force accordingly.

Third: A lawyer may be appointed as a judge by a Presidential Decree; if he/she passes a practice period not exceeding 10 years as a lawyer and his/her age does not exceed 45, in exception from the condition of graduation from the Judicial Institute.

Article 37

First: The Minister of Justice shall specify the court in which the judge commences his/her position after the issuance of a Presidential Decree to appoint him/her as a judge.

Second: The Judge shall assume his/her position after swearing the following oath before the president of the republic or his representative: "I swear by God the Almighty and the sanctities that God called us to abide and work accordingly, that I shall do my utmost to elevate the prestige of justice and fairness, to adhere to right in my judgments under all conditions and reasons, to strive and use all my capabilities to their farthest limits in search of the truth and everything that require justice and fairness and to do all that in accordance with the law and to respect the constitution".

Article 38

First:

- A. The grades, salaries, annual allowances and the periods of promotion for judges shall be as follows:

Grade	Salary limits	Increment	Promotion period
A	165-200	7	-----
B	135-155	6	5

C	100-125	5	5
D	70-95	4	5

- B. Judges receiving a salary of 72 Dinars a month when this law enters into force shall continue with their salaries and shall be awarded the increment in accordance with the provisions of paragraph A.

Second:

- A. The President of the Court of Cassation shall have the rank of a minister and is awarded the salary and allowances of a minister.
 B. The salary of the Deputy President shall be 220 Dinars and the salary of Court of Cassation judge shall be 200 Dinars.
 C. The position of the President of the Court of Appeal shall be among the positions of the special ranks.

Third: The judge shall be awarded automatic increment from the minimum to the maximum for each grade and as shown in item (First) of this Article, when he/she finishes one year in service.

Fourth: Deputies of the President of the Court of Cassation and all judges shall receive the high cost of living allowances received by government employees under the Civil Service Law.

Fifth:

- A. The judges shall receive judicial allowances and as follows:

Salary	In Districts and sub-districts except Baghdad governorate	In governorates' centers except Baghdad
70-125	100% of the nominal salary	90% of the nominal salary
135-155	90% of the nominal salary	80% of the nominal salary
165-200	80% of the nominal salary	70% of the nominal salary

- B. Judges working in Baghdad shall receive judicial allowances at the rate of 60% of their nominal salaries including the deputies and judges of the Court of Cassation.
 C. The person receiving allowances according to the rates mentioned in paragraph (A) has to be residing in his/her work location , otherwise he/she shall receive the lower of the rates of these allowances from between his/her residence and work location.

Sixth:

- A. The judges working outside Baghdad shall be granted 30-Dinars fixed allowance a month.
 B. The residence allowances shall not be granted for the person who occupies a house that belongs to the state for a rent not exceeding 30 Dinars a month and his/her office pays this rent. If the rent exceeds the aforementioned sum, the judge shall pay what exceeds.

- C. The person who possesses a house in his/her work location shall be deprived from the residence allowances and the person who does not reside in his/her work location shall also be deprived from them.

Seventh: The person who is appointed as a president of a court of appeal or delegated for this position shall be granted fixed special allowances of 25 Dinars a month.

Eighth: The director generals of the offices and apparatuses of the Ministry of Justice, the president of the State Consultative Council, his two deputies, the advisors and assistant advisors in the Council, the president of Public Prosecution, public prosecutors, their deputies and the judicial supervisors shall receive the judicial allowances and the fixed residence allowances stipulated in this Article in accordance with its provisions, if they are not judges.

Ninth: The judicial allowances, residence allowances and the fixed special allowances awarded in accordance with this Article shall be excluded from the provisions of the state employees' allowances law No. 93 of 1967 or any other law replaces it.

Section Two Judges Promotion

Article 39

First: The judge shall be promoted from a grade to a higher grade by a decision from the Justice Council after spending the period specified for his/her grade and which is indicated in item (First) of Article (38) of this law.

Second: On considering judge's promotion, the Justice Council shall take into account the reports of the presidents of the appellate regions and the judicial supervisors about his/her competency, good management and the number of the approved and rejected judgments with due considerations given to the reasons of the rejection and the opinion of the Ministry of Justice regarding his/her conduct and the letters of appreciations and punishments.

Third: The Justice Council shall issue its decision to promote a judge, if it is proved that he/she is qualified for promotion. The Ministry of Justice shall issue an order in this regard.

Fourth: Upon a justified reason, the Council of Justice may postpone the promotion of a judge for no less than (3) months and not to exceed one year, if it is proved that he/she is unqualified.

Fifth: It is permitted to remove the judge or transfer him/her to a civil position by a Presidential Decree in accordance with a decision from the Justice Council and a

proposal from the Minister of Justice, if his/her promotion was postponed for more than two successive times in the same grade.

Section Three Leaves and Pension Rights

Article 40

First: The judge is entitled to (an ordinary leave) with a full salary at the average of one day for each (8) days of his/her service.

Second: The Judge shall enjoy an annual leave that is not less than 30 days he is entitled to annual leaves. In case he/she does not use them, he/she only accrues the days that exceed 30 days.

Third: Regular leave that is accrued in accordance with item (second) of this article can be accumulated, provided that it does not exceed 180 days.

Fourth: The leaves a judge is entitled to for previous services shall be accrued.

Article 41

First: The Minister of Justice may grant the judge who spent three years in judiciary an educational leave outside or inside Iraq for two years with full pay, in order to specialize in a subject related to juridical and judicial specializations and to obtain a Masters or a Doctorate degree. He/she may extend the leave for another year.

Second: A second educational leave may be granted for the judge who finished his/her first educational leave and has obtained a Masters degree, for two years in order to obtain a Doctorate degree in the same subjects mentioned in item (first) of this article, and that after one year of commencing work. The Minister of Justice may extend this leave for another year.

Third: The educational leave shall not be granted for those who are more than 40 years for those intending to obtain a Masters degree, and 45 years for those intending to obtain a Doctorate degree.

Fourth: The educational leave shall count as juridical service. He/she shall be granted seniority for the purposes of promotion and allowance for two years for those who obtain The Doctorate, and one year for those who obtain a Masters only.

Article 42

First: The judge shall not be referred to retirement unless he/she completes his/her 63 years of age. He/she may be referred to retirement before that according to his/her request pursuant to the provisions of the Civil Retirement Law.

Second: The judge who has been referred to retirement shall be paid for the annual leaves that he/she is entitled in full, based on his/her gross monthly salary before referral to retirement, provided that it does not exceed 180 days.

Article 43

Claims on the rights that arise from this law shall be filled with The Judges Affairs' Committee that is composed of three members chosen by The Justice Council among its members at the beginning of every year. Its decisions in these claims shall be appealable before the expanded commission in the Cassation Court by the Minister of Justice, and by the judge against whom the judgment was issued within thirty days from the date of notification. The judgment in this matter shall be final.

Article 44

The provisions of the Civil Service Law and the Civil Retirement Law shall apply to matters that are not stipulated in this law, in a manner that does not contradict with its provisions.

**Chapter two
Juridical Advancement**

**Section One
Juridical Promotion**

Article 45

First: The judges' grades and the salary limits for each grade shall be as follows:

Grade	Salary
First	165-200
Second	135-200
Third	100-200
Forth	70-200

Second: The judge is promoted from a grade to another by a decision of the Justice Council, based on a request presented by the Justice Council to The Ministry of Justice, provided that:

- A. He has been paid the minimum salary for the grade he is sought to be promoted to.
- B. He has prepared a research in a subject related to the judicial or juridical competences. The judge who obtained a masters degree shall be exempt from submitting the research for one promotion; consequently a judge who has a

- Doctorate degree shall be exempt from submitting it for two consecutive promotions.
- C. The Justice Council, while considering a promotion of a judge, shall consider the reports of the chief of the appellate regions and the judicial supervisors regarding his/her competence, good management and his/her ratified and rejected judgments, taking into consideration the reasons of the rejection, and the opinion of the Ministry of Justice regarding his/her behavior and all the appreciations or punishments directed at him.*20

Article 46

First: When submitting a promotion request, the Ministry of Justice shall inquire the opinion of the Cassation Court Presidency, Court of Appeal Presidency, and the High Labor Court Presidency concerning labor judges, and Judicial Oversight Commission Presidency in regard to the competence of judge and his/her eligibility for promotion.

Second: The Ministry of Justice shall submit the request with findings above-mentioned in item (First) of this article, accompanied by its opinion to the Justice Council for consideration.

Third: The Justice Council shall consider the findings referred to in items (first) and (Second) of This article, the annual reports filed by his/her superiors, the reports of judicial supervisors and the legal research presented by him, and the judgments in which he/she put forth a good effort to issue or included legal opinions, which confirm his/her continued reading of the judicial and juristic activity. The Council shall issue its decision to promote him/her if he/she is eligible; otherwise, his/her promotion shall be postponed for a period not less than six months by a causative decision that shall be relayed to him.

Fourth: The Justice Council shall consider matters related to promotions in the months of January and July of every year. Its resolution in this matter shall be final and non-appealable.

Chapter Two The Judicial posts

Article 47

First: The Court of Appeal deputy President and its judges shall be selected from among the first or second grade judges by a decision of the Justice Council based on a nomination by The Court of Appeal President.

Second: The Court of Appeal President shall be appointed by a Presidential decree based on a recommendation by the Minister of Justice from among the first grade judges who have spent a period not less than two years in this grade and from among the Court of

Appeal deputy Presidents or the Directors General of the offices of the Ministry of Justice headquarter and its departments. (21)*

Third: The judge of Cassation Court shall be appointed by a Presidential decree based on a recommendation by the Minister of Justice, from among the first grade judges who have held one of the following offices for a period not less than two years.

- A. President of the Court of Appeal.
- B. Deputy President of the Court of Appeal.
- C. Judge of the Court of Appeal.
- D. President of the Judicial Oversight Committee and the judicial supervisor.
- E. President of the State Shura Council, his/her deputies, and the Council advisors.
- F. Chief prosecutor, deputy chief prosecutor, and the public prosecutor.
- G. Directors general of the Ministry of Justice headquarter offices and departments.

Forth: The deputy president of the Cassation Court shall be appointed by a Presidential decree, based on a recommendation by the Minister of Justice, from among its judges who have spent a period not less than three years in it.

Fifth: The president of Cassation Court shall be appointed by a presidential decree, based on a recommendation by the Minister of Justice from among the deputy presidents of the Court.

Article 48

The seniority of judges shall be determined based on their posts, grades and their date of appointment in it. In case of a tie, it shall be determined upon a decision by the Minister of Justice.

Chapter Three Transfer and Assignment

Article 49

First:

- A. A judge may not be transferred to a non-judicial post except with his/her written agreement.
- B. It is permissible to assign the judge in the Appeal Court, upon his/her written agreement, and per the order of the Minister of Justice to a post of legal advisor in the Revolutionary Command Council, to the presidency of the divan of the Presidency, to the presidency of one of the Ministry of Justice headquarter offices and departments, to the presidency of the Agrarian Reform Cassation Commission, or to teach in the judicial university or institute, provided that he keeps his/her juridical capacity and his/her rights in it.
- C. The Minister of Justice, upon the approval of the Divan Presidency, may assign first grade judges to the Cassation Court who satisfy its conditions to of

appointment, in order to complete the two thirds of the numbers of judges stipulated in Article 12 of This law.(22)*

Second:

- A. It is permitted to assign a the judge, upon his/her written agreement and based on order by the Minister of Justice to the non- court type offices and departments of the Ministry of Justice, provided that he/she keeps his/her judicial capacity, rights and entitlements prior to his/her assignment, and provided that consideration is given to the extent that the post he is assigned is -----with his grade. If his/her assignment is to the public prosecution, his/her written agreement is not required, provided that the assignment period in this case does not exceed three years throughout his/her judicial service(23)*.
- B. It is not permitted to assign a judge to a position in the official offices and socialist sector institutions, except for his/her assignment based on written agreement and the order by Minister of Justice to carry out the legal duties in the Revolution Command Council, presidency of the divan of Presidency of the Agrarian Reform Cassation Committee or teach at the university or the judicial institute, provided that he/she shall maintain his/her judicial capacity and rights.

Third: The period of assignment stipulated in item (First) and (Second) of this Article shall not exceed three years, which can be renewed for another year.

Article 50

First: It is not permitted after the validity of this law:

- A. To appoint a fourth grade judge in places other than the provinces and districts.
- B. To transfer a third grade judge to the courts of Baghdad.

Second: The judge may not be transferred before spending three years in one place. The Justice Council may transfer him based on a causative decision if the medical reports issued by the official medical committees certify that his health status requires his transfer, or if his functional circumstances do not allow him to fully carry out the tasks at his work place, and that remaining in the his place might influence the cause of justice.

Third: The Judge of a fourth, third or second class may not remain without transfer for a period of more than five years. Judges who work at Baghdad Governorate Courts shall be exempted from the obligation of transfer.

Fourth: The Minister of Justice may exempt the top three female graduates and the top three male graduates from the Judicial Institute from the provisions of clause (First) of this Article, so as to serve anywhere including Baghdad Governorate each year before or after this law enters into force.

Fifth: The Judge may be delegated to work at another court by an order from the Head of the Appeals Court when public interest necessitates that. The assignment shall be made

from one appellate region to another by an order from the Minister of Justice, provided that the assignment period should not exceed four months.

Article 51

The transfer of Judges shall be made during the month of July of each year. It may be made in other months when public interest necessitates that. The transfer shall be made at the consent of The Council of Justice upon the proposal of the Minister of Justice.

Section Four Specialization and Sabbatical Leave of Judges

Article 52

First: The Judge may enjoy one year sabbatical leave inside or outside Iraq, for the purpose of submitting a study or research on a subject related to the justice or judicial specializations on a proposal from the Minister of Justice and by a decision from the Council of Justice based on a request submitted by the Judge who shall specify therein the place of the study leave and the subject of the intended study.

Second: It is required from whoever is granted one year study leave to be an appeals court judge of the first or second class.

Third: A judge may enjoy a second year study leave after the elapse of five years from his first study leave.

Article 53

First: The judge enjoying a study leave shall undertake the following:

- A. Not to change the subject of his study leave unless with the consent of the Minister of Justice, on the condition that he submits the application for the change within three months from the date of the study leave.
- B. Not to change the place of the study leave unless with the consent of the Minister of Justice. That shall not include the temporary movement that is entailed in the study or the research.
- C. He may not enjoy any leave during the period of the study leave except for the sick leaves deemed legal.
- D. To present three copies of his research or his study to the Ministry of Justice at a time not to exceed three months from the date of the end of his study leave.
- E. To continue with the judicial service after the end of the study leave for a period equals to the study leave's period.

Second: The judge on the study leave shall repay the Ministry of Justice all the salaries and the allowances that he received as well as all the expenses, grants and assistances paid to him without the need for a warning, as in the following cases:

- A. In case he does not submit the research or the study for which he enjoyed the leave, within the period fixed in paragraph (D) of clause (First) of this Article or he abandoned the study leave for any reason, except in the case of a preventive illness that is supported by medical reports deemed legal.
- B. If he left the service prior to the end of the period specified in paragraph (E) of clause (First) of this Article.

Article (54)

A Judge of the second class and above may specialize in one branch or more of the Judiciary pursuant to the instructions that are issued by the Justice Council.

Chapter Three
Oversight on Judge's Duties and Disciplinary Matters

Section One
Oversight the Judge's Duties

Article (55)

First:

- A. The Minister of Justice shall have the right of oversight on all Courts, Judges, and those delegated with judicial powers such as the employees, commissions and committees, and the scrutiny over the good management of the Courts, the conduct of those discharging its duties, their personal and official behavior, the order of its records and accounts, the working hours of their employees and scrutinizing the Judges adherence to their duties that are stipulated in Article (7) of this Law.
- B. The Minister of Justice may, for the implementation of the oversight and inspection in a manner stated in paragraph (A), inspect all the Courts and Departments authorized with judicial powers or delegate for this purpose one judge of the Cassation Court, the Head of the Judicial Supervision Committee, the delegated judges for the supervision or any other judge to perform such task.
- C. The Inspection over the Court of Cassation's work and the supervision of its Judiciary shall be performed by its Head, provided that he shall submit an (annual) report about the Court's work to the Minister of Justice and The Council of Justice.

Second:

- A. The Head of the Appeals Court shall have the right of supervision and inspection over all judges and the courts in his region, giving the required instructions and warning on what occurs contrary to the duties of the position and the good conduct of the administrative and accountancy work. The Head of the Appeals Court should submit "an annual" report to the Minister of Justice about the judges

- to include therein his observations on the conduct of each of them, their competency, the extent of their adherence to duties, the administrative and financial matters in their courts and what he concludes as a result of his supervision. Such reports are to be kept in the judge's personal file.
- B. The Head of the Court of Appeal may delegate one of his deputies to inspect any court in his region.

Article 56

First: The Cassation Chambers, the Appeal Court Chambers and the Felonies Courts should prepare seasonal reports stating therein the judgments and verdicts in which a judge has committed a gross error due to his ignorance of the primary legal principles or his disregard of the facts that would it finds upon its inspection of the judgments and verdicts. A copy thereof should be sent to the Ministry of Justice and the Council of Justices, in order to be kept into the Judge's personal file, to be taken into consideration in his promotion.

Second: The Ministry of Justice, the Justice Council, the Cassation Court, the Appeal Courts and the Felonies Courts shall keep records for these errors in accordance with instructions issued by the Minister of Justice.

Article 57

First: The Minister of Justice may caution the judge regarding the legal and administrative mistakes that appear as a result of the inspection of his work, as well as any violations of his duties and the requirements of his post.

Second: The Heads of the Cassation and Appeal Courts may caution the Judge regarding the legal mistakes that appear during the cassation inspection.

Third: The President of the Appeals Court may caution the judge in his region regarding actions committed contrary to the duties of his post.

Four: The caution shall be in the form of a letter addressed to the Judge. Copies thereof should be sent to the Minister of Justice, the Justice Council and another is kept in his personal file.

Section Two Disciplinary Matters

Article 58

The Judicial Affairs Committee formed in accordance with the Law of the Ministry of Justice shall issue, regarding filed disciplinary lawsuits against the Judge, one of the following disciplinary punishments:

First: Warning, this result in a six months delay of the judge's increment and his promotion.

Second: Delay of promotion or increment or both for a period not less than one year and not exceeding three years from the date of the decision in case he has completed the legal period for promotion, otherwise from the date of their completion.

Third: Termination of service, this punishment is imposed on a judge when a final judgment is passed against him from a competent Court for an act that does not conform to the honor of the judicial position, and if his non-eligibility to continue in the judicial service has been proven in a trial conducted by the Committee. The Council of Justice takes a decision to suspend him pending the issuance of the Republican Decree to terminate his service. (24)*

Article 59

First: The Council of Justice may terminate the service of a class four judge or transfer him to a civil post upon a decision justifying his non-eligibility to the Judiciary. The Council of Justice takes a decision to suspend him pending the issuance of the Republican Decree to terminate his service or transfer him to a civil post. (25)*

Second: Whoever had his service terminated pursuant with the provisions of this law, shall not be returned to the Judiciary provided that this shall not prevent him from being assigned to a civil post.

Article 60

First: Disciplinary lawsuits against a Judge shall be filed upon a decision from the Minister of Justice, by referring him to the Judicial Affairs Committee provided that the decision should include a statement of the occurrence attributed to him and its supporting evidence. Such decision shall be notified to both the judge and the Public Prosecutor.

Second:

- A. The Judicial Affairs Committee shall set a date in order to hear the lawsuits notifying the Minister of Justice, the Head of Public Prosecution and the judge of it.
- B. The trial shall be secret and the verdict shall be recited publicly.
- C. The trial shall be conducted in the presence of the Minister of Justice's representative and the Public Prosecutor or whom he delegates from among the Public Prosecutors. The Judge himself should be present and he may bring a lawyer with him.
- D. The Committee itself may conduct what it sees necessary of investigations.
- E. The Committee shall settle the case after the completion of the investigation and hearing the statements of the Minister of Justice's representative, the Public

- Prosecutor and the judge. Its decision shall be notified to the Minister of Justice, the Public Prosecutor and the judge.
- F. The Committee shall in its proceedings adopt the rules stipulated in the Criminal Procedures Code.

Article 61

First: In case the Judicial Affairs Committee found during the hearing of the lawsuit that the act relating to the Judge will be a felony or misdemeanor, then it shall decide to refer him to a competent court. All the papers shall be sent to this court after the Minister suspends the judge pursuant to the stipulations in the State Employees Disciplinary Law.

Second: If the Competent Court decides to exonerate or release the Judge, or issues any decision that finalize the criminal lawsuit, and then the Committee shall continue hearing the disciplinary lawsuit pursuant to the provisions of this law.

Third: If the Court condemns the judge, then it should impose on him a disciplinary punishment that is consistent with the act attributed to him pursuant to the provisions of Article (58) of this law.

Article 62

The Minister of Justice, the Public Prosecutor and the judge shall have the right of appeal to the Expanded Body of the Cassation Court by a decision of the Judicial Affairs Committee in accordance with the provisions of this law within thirty days from the date of its notification. The Expanded Body in the case the need arises to listen to testimonies of the representative of the Minister of Justice, the representative of chief prosecutor and the judge, then it shall issue its decision by approving, revoking or amending the panel's decision and its decision in this respect shall be final.

Part Four Final Provisions

Article 63

First: If the president of the court or the panel became absent, or his post became vacant, or something impeded his assumption of his duty, then the senior and the most senior deputies or members shall undertake his duty.

Second: If there is more than one judge in one court, then the most senior of them shall manage and distribute the work between them. The Minister of Justice may appoint another one.

Article 64

No judge shall be detained or have criminal proceedings carried out against him, in cases other than those involving in a flagrant felony, except after obtaining the permission from the Minister of Justice.

Article 65

First: The term (Court of First Instance) shall replace the term (Conciliation Court) whenever it is cited in the Civil Procedures Code and other laws.

Second: Provisions and decisions issued by the conciliation courts, prior to implementation of this law, or issued by Courts of First Instance after its enforcement in cases covered by the provision of the amended Article (31) of the Civil Procedures Code No. 83 of 1969, shall be subject to the same legally determined means of appeal.

Third: The term (Personal Status Court) shall replace the term (Shari' a Court) whenever stipulated in laws.

Fourth: The term (Criminal Court) shall replace the term (Supreme Felony Court) whenever stipulated in laws.

Fifth: The term (Misdemeanors Court) shall replace the term (Felony Court) whenever stipulated in laws.

Article 66

Judges of first, second and third class, who were in the service prior to August 1, 1979 shall retain their salaries, classes and their rights, with the exception of the limitation stipulated in Paragraph (First) of Article (45) of this law. They shall be subjected to its provisions with regard to promotion procedures to the subsequent classes, after their promotion to grades that follow the grades they attained.

Article 67

Working hours in the Courts shall be set by a Council of Justice decision, according to seasons, provided that the daily working hours shall not be less than five hours. Special working hours, provided that it is not less than four hours, may be set during Ramadan.

Article 68

Regulations and instructions may be issued to facilitate the enforcement of this law.

Article 69

The amended Judicial Authority Law No. (26) of 1963, , and the regulations issued accordingly shall be annulled.

Article 70

This law shall enter into force thirty days after its publication date in the Official Gazette.

**Saddam Hussein
President of the
Revolution Command Council**

Justifying Reasons

Stemming from the principles of 17-30 July socialist national revolution and pursuant to the provisions of the Legal System Reform Law, it became prudent to reconsider the judicial organization, in line with objectives that concurrent with the course of the revolution, in order to build a judicial system, capable of bearing its responsibility in enforcing the laws and achieving justice with a spirit that encompasses the nature of the social and economic transformations, and is capable of deepening and expediting those transformations, in assimilating the revolutionary legislations and decisions, applying the valid laws with the spirit of the revolution and a judicial mentality that complies with the socialist goals. Since the Judicial Authority Law No. 26 of 1963 has failed to keep up with the new transformations, which the revolution achieved, thus this law was prepared to conform to the revolution goals in establishing an advanced judicial system.

With this in mind, the law has included new principles. It established a presidency panel in the Court of Appeals and specified its jurisdiction. It also established a council in every appellate region responsible to study the obstacles and problems faced by the courts and to submit the appropriate proposals to solve them. It also distinguished between the judge's promotion and his rise, aiming by such to develop his legal and cultural level and to link his promotion to this level, in order to enable him to keep up with the legal and juristic advancements. In addition, the law adopted the principle of allowing the judge to be otherwise unoccupied in order to carry out studies and researches related to the justice and judicial jurisdictions, which contribute to the judiciary system development. The law also sets new rules to select judges for the major judicial posts, and other rules for transfer, concurrent with their classes for the sake of achieving justice and its good performance.

Thus, this law was enacted.

Margins

- (1) * The text of Article (2) of the law has become Paragraph (First), and Paragraph (Second) was added to it by that amendment law No. (9) of 2000/ the sixth amendment law, which was published in the Iraqi Official Gazette issue No. (3812) on February 7, 2000.

- (2) * Paragraph (4) of Article (11) of the law was deleted pursuant to law No. (16) of 1988 the first amendment law, which was published in the Iraqi Official Gazette issue No. (3188) on February 8, 1988.
- (3) * The beginning of (B) of Paragraph (First) of Article (13) of the law was annulled, and was replaced by the present text pursuant to Law No. (1) of 1994/ the fifth amendment law, which was published in the Iraqi Official Gazette issue No. (3496) on February 7, 1994.
- (4, 5) * (E) of Article (13) of the law and the expression (and the administrative cases commission) of Paragraph (second) of the same Article were deleted pursuant to law No. (16) of 1988/ the first amendment law, which was published in the Iraqi Official Gazette issue No. (3188) on February 8, 1988.
- (6)* Paragraph (Second) of Article (16) of the law was amended, whereas the Court of Appeal in the Baghdad region was canceled and was replaced by the Baghdad Court of Appeals/ Rasafa and Baghdad Court of Appeals / Karkh, pursuant to a Presidential decree No. (167) on August 31, 1999, which was published in the Iraqi Official Gazette issue No. (3791) of September 13, 1999.
- (7)* The Court of Appeal in Najaf region was established pursuant to a Presidential decree No. (494) on September 5, 1982, which was published in the Iraqi Official Gazette issue No. (2901) on September 13, 1982.
- (8)*,(9)* Two Courts of Appeals were established in Al-Anbar and Wassit regions according to a Presidential Decree No. (140) on March 18, 1992, which was published in the statement No. (2735) in the Iraqi Official Gazette No. (3402) on April 20, 1992.
- (10)* Salah-El-Din Court of Appeal was established pursuant to a Presidential decree No. (167) on August 31, 1999, which was published in the Iraqi Official Gazette No. (3791) on September 13, 1999.
- (11)* The Court of Appeal in Diyala region was established pursuant to a Presidential decree No. (186) on 03 June 2001, which was published in the Iraqi Official Gazette in its issue No. (3882) on June 11, 2001.
- (12)*Article (21) became Paragraph (first) of the Article, and Paragraph (second) was added to it pursuant to law No. (16) of 1988/ the first amendment law, which was published in the Iraqi Official Gazette issue No. (3188) on February 8, 1988.
- (13, 14)* Articles (24) and (25) of the law were cancelled. The jurisdictions of the administrative courts were assigned to the Courts of First Instance, pursuant to law No. (16) of 1988/ the first amendment law, which was published in the Iraqi Official Gazette issue No. (3188) on February 8, 1988.
- (15)* Paragraph (First) of Article (36) of the law was amended by the Revolution Command Council resolution No. (665) on May 23, 1981, which was published in the Iraqi Official Gazette issue No.(2832) on June 1, 1981,and then by Revolution Command Council resolution No.(384) on June 4, 1987, which was published in the Iraqi Official Gazette issue No.(3154) on June 15, 1988.
- (16)* Paragraph (Third) was added to Article (36) of the law by amendment law No. (16) of 1988/ the second amendment law, which was published in the Iraqi Official Gazette issue No. (3188) on February 28, 1988.

- (17)* Article (37) of the law was amended by amendment law No. (2) of 1989/ the second amendment law, which was published in the Iraqi Official Gazette issue No. (3236) on January 9, 1989.
- (18)* (C) was added to Paragraph (Second) of Article (38) of the law by amendment law No.(9) of 2000/ the sixth amendment law, which was published in the Iraqi Official Gazette issue No.(3812) on February 7, 2000.
- (19)* Paragraph (Second) of Article (39) of the law was revoked and replaced by the present text by amendment law No. (104) of 1989/ the third amendment law, which was published in the Iraqi Official Gazette No. (3285) on December 11, 1989.
- (20)* Paragraph (Third) was added to Article (45) of the law by amendment law No. (104) of 1989 / the third amendment law which was published in the Iraqi Official Gazette issue No. (3285) on December 11, 1989.
- (21)* Paragraph (Second) of Article (47) of the law was annulled and replaced by the present text by amendment law No. (9) of 2000/ the sixth amendment law which was published in the Iraqi Official Gazette issue No. (3812) on February 7, 2000.
- (22)* (C) was added to Paragraph (First) of Article (49) of the law by amendment law No. (4) of 1993/ the fourth amendment law which was published in the Iraqi Official Gazette issue No. (3451) on March 29, 1993.
- (23)* (A) of Paragraph (Second) of Article (49) of the law was amended by law No. (97) of 2001/ the eighth amendment law, which was published in the Iraqi Official Gazette issue No. (3907) on December 3, 2001.
- (24)* Paragraph (Third) of Article (58) of the law was annulled and replaced by the present text by amendment law No. (18) of 2000/ the seventh amendment law, which was published in the Iraqi Official Gazette issue No. (3820) of April 3, 2000.
- (25)* Paragraph (First) of Article (59) of the law was annulled and replaced by the present text by amendment law No. (18) of 2000/ the seventh amendment law, which was published in the Iraqi Official Law issue No. (3820) of April 3, 2000.