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JUDICIAL REFORM IN THE REPUBLIC OF CROATIA

According to the Constitution of the Republic of Croatia the judicial system in the Republic of Croatia functions at courts.

The judicial system is self-reliant and independent and the courts administer justice on the basis of the Constitution and the Law.

The trials are regularly open for all but the public can be excluded from the whole trial or from one part of it. That usually happens if the minors sit in the court, or in cases of protection of private life of the client or in marital disputes, in procedures dealing with tutor ship or adoption in proceedings dealing with military, official and business secret and in proceedings dealing with security protection and defense of the Republic of Croatia.

The trial takes place in front of one judge or judicial council which consists of professional judges and jurors.

The judges and the jurors engaged in the trial cannot be called to account for the opinion given while making a judicial decision.

The judges have immunity identical to the immunity of the Members of the Parliament Besides, they cannot be held in custody i.e. legal proceedings cannot be instituted against them without an approval from the Governmental Judicial Council.

The obligation of judges is permanent and it means that the judges are elected with no mandate restrictions and can be relieved from their duty only because of the reasons stated in the Constitution of the Republic of Croatia.

The High Judicial Council of the Republic of Croatia, which is elected by the Sabor (Parliament) of the Republic of Croatia, appoints the judges.



While electing the members of the High Judicial Council, the Sabor (Parliament) of the Republic of Croatia requires from the Supreme Court of the Republic of Croatia, Minister of Justice, State Attorney of the Republic of Croatia, Croatian Bar Association and Law School to propose the candidates for the Governmental Judicial Council. Eight members of the High Judicial Council. Eight members of the Governmental Judicial Council are elected among judges, four among State attorneys, one member among lawyers and two members among regular professors of law sciences. They are elected for an eight - year term.

The members of High Judicial Council have immunity and they cannot be called for account for the expressed opinion or voting in the High Judicial Council. Besides, they cannot be held in custody and no legal proceedings can be instituted against them without an approval from the Council.

The High Judicial Council exercises also disciplinary proceedings against judges. Against a disciplinary decision of the High Judicial Council, a judge can submit a demand for protection to the Sabor (Parliament) of the Republic of Croatia.

According to the Law on Courts, the courts decide about the disputes on basic rights and obligations of the citizens, about the rights and obligations of the Republic of Croatia and local and administration bodies. The courts also establish criminal responsibility and pronounce sentences and other measures to the committers of criminal acts. They decide on legality of individual written documents of administrative authorities, they solve the disputes dealing with personal relations between the citizens, they solve commercial and proprietary disputes and the disputes dealing with job and as well as other litigations.

According to the Law and by means of the contract, it is possible that arbitrate courts decide upon an individual legal matter.



It is forbidden to influence on judicial decision. It is especially forbidden to use any public authorities, mass media and any kind of public declaration in order to influence the course and the result of judicial proceedings.

A decision of a law court can be changed and canceled only by the next higher court. Everybody is obliged to respect a valid and executive judicial decision and has to obey it.

The judicial system in the Republic of Croatia functions in municipal courts, district courts, commercial courts, High Commercial Court of the Republic of Croatia, Administrative Court of the Republic of Croatia. The highest court in the Republic of Croatia is a Supreme Court.

According to the latest decision of the Sabor (Parliament) the military tribunals are canceled the Republic of Croatia.

Court counselors can help a judge in his work. They can make drafts of judicial decisions. According to the Law on Courts there are also court interpreters, experts and values and they are independent but appointed by the court to offer their professional knowledge and assist to the court.

According to the Constitution of the Republic of Croatia, in our judicial system there is also a Constitutional Court which have authority to decide about conformity between the Law an the Constitution and about conformity between other regulations and the Constitution and the Law. This court protects liberty and rights of a citizen (as they are guaranteed by the Constitution), it solves a competence dispute between the bodies of legislative, executive and judicial system. That court decides about the responsibility of the president of the Republic of Croatia and exercises other activities established by the Constitution.

The Sabor (Parliament) of the Republic of Croatia elects the judges in the Constitutional Court, to the eight - year mandate.

The judges of the Constitutional court have immunity as the Members of the Parliament of the Republic of Croatia.



Against decisions of courts or administrative authorities, by which are violated Constitutional liberties and rights of a man and a citizen, it is possible to submit and appeal to the Constitutional court of the Republic of Croatia.

This kind of protection is used recently very often. Unfortunately, it is used in most cases when there is no reason, neither constitutional nor statutory.

In the Republic of Croatia there are some institutions which are not a part of the judicial system in a limited sense, but they are closely connected to that system. Those institutions are: an ombudsman, public notary ship and a legal profession.

Law on Ombudsman defines that an ombudsman can consider individual cases of imperiled rights of the citizens. Namely those rights are usually imperiled by the governmental administrative bodies (while performing their activities), bodies with public authorities or their employees.

The Sabor (Parliament) of the Rep. of Croatia appoints and relieves the ombudsman from his duty.

The governmental administrative bodies and the bodies with public authorities must immediately or at the latest within 30 days, inform the Ombudsman about the undertaken measures (procedures) regarding his warning, suggestion or recommendation. If they do not pay attention to that or if they do not proceed according to the instructions or recommendations of the Ombudsman, he will inform about it the Parliament of the Rep. of Croatia and the public.

All the data and information should be accessible to the Ombudsman. He is authorized to have an insight in all the documents which are in competence of the Republic of the Croatia, and in all written documents of governmental administration and the bodies with public authorities. He can also have an insight in those documents which are considered to be secret. All governmental bodies are obliged to enable him to have an insight in all the required documents.



The Ombudsman can at any time visit correctional institutions (prisons) and other institutions where a freedom of movement is restricted. He can also visit and examine all the rooms of such institutions.

The function of public notary ship is very important. One of the functions performed by the Notary Public is to carry out, by the order of courts, the proceedings determined by the law.

Public notary ship is a public function performed by the Public Notaries who are independent and self-reliant holders of that post (function).

The Minister of justice of the Rep. of Croatia appoints and relieves the Notaries Public from their duty.

The Republic of Croatia has accepted a Latin model of public notary ship.

Public Notaries have a great function and authorities in the process of founding the companies.

At the end, it is important to point out that in the Republic of Croatia we have a legal profession (with century - old tradition) through which a legal assistance is offered.

According to the Constitution of the Republic of Croatia (article 27) lawyer' s profession (legal profession) is self-reliant and independent profession which offers legal assistance.

We can also point out that legal profession is the only free profession regulated i.e. defined by the Constitution of the Republic of Croatia and that the prescription on legal profession in the Constitution of the Republic of Croatia is placed in that part of the Constitution which relates to the protection of human rights.

It is also important to state that other prescriptions of the Constitution point out the importance of legal profession (Eg.The members of the Constitutional Court and the Governmental Council are elected among lawyers.)



According to the Legal profession Act the independence and self-reliance of legal profession are realized through independent and self-reliant lawyer's work as a free activity. The independence and self-reliance of legal profession is also realized through establishment of Croatian Bar Association - an independent and self-reliant association of lawyers, through editing the Statute and other documents (acts) of the Croatian Bar Association and through decisions on how to become a member of the Bar and decisions on suspension from the Bar.

From the above stated it is obvious that the judicial system of the Republic of Croatia is compared to the judicial systems of European countries and especially to the judicial systems of the Middle European countries. The reason for that lies in fact that the Republic of Croatia is geographically and historically connected to the Middle European countries.