

**Decision No. (283) of 1372 FDP
of the General Assembly of the Supreme Court
establishing the Rules of Procedure of the Supreme Court**

The General Assembly of the Supreme Court

Upon review of:

- The Declaration of the Establishment of the Authority of the People;
- The Great Green Charter of Human Rights of the Jamahiriya Era;
- Law No. (20) of 1991 on the promotion of freedom;
- Law No. (6) of 1982 on the reorganisation of the Supreme Court, and the amendments thereof;
- Law No. (51) of 1976 on the issuance of the Justice System Law;
- Law No. (2) of 1371 FDP on judicial fees;
- The deliberations of the General Assembly of the Supreme Court in its Session no. (283), convened on 28/06/1372 FDP;

issued the following decision:

Article (1)

Proceedings shall be conducted before the Supreme Court according to the attached Rules of Procedure.

Article (2)

The competent bodies shall implement this decision, which shall take effect as of its date of issuance. It shall be published in the Code of Procedure.

Counsellor

**Hussein Mokhtar Albuaihi
President of the Supreme Court**

**Issued on 11 Jumada al-Akhera 1372 FDP
Corresponding to 28 July 2004 AD**

Part (1)

The General Assembly

Article (1)

The General Assembly shall be convened by an invitation by the President of the Court, or his representative, or at the request of three of the counsellors of the Court. The invitation shall be sent along with an agenda at least three days prior to the date set for the Assembly to be convened.

When necessary due to urgent matters, the General Assembly may be called to convene on the same day.

In cases other than those in which the law requires a special majority, the convening of the Assembly shall not be valid unless an absolute majority of its members are in attendance.

When necessary, the Assembly may issue its decisions by circulation.

Article (2)

The President shall open the sessions of the General Assembly, chair its discussions, and read out the decisions that it issues.

Article (3)

The Secretariat of the General Assembly shall be overseen by the Secretary-General of the Court, or by whomever is delegated by the President in the Secretary-General's absence, or by a member of the General Assembly who is delegated by the General Assembly when necessary. The Secretary shall record the minutes of the session.

Article (4)

Each member shall express his opinion on the matters that are presented for an opinion. If a member abstains from expressing an opinion, he shall give the reason for this abstention. Deliberations shall be confidential.

Article (5)

In cases other than those in which the law requires a special majority, decisions shall be issued by an absolute majority of the members in attendance. If the opinions of the members are evenly divided, the opinion supported by the President shall prevail.

Article (6)

The vote shall take place through a show of hands or by a roll-call of the members, unless the Assembly is of the view that the vote should be secret. The President shall announce the result immediately following the vote.

Article (7)

The minutes of the session shall be prepared within one week of the date on which the meeting ended. The President and Secretary shall sign the minutes, every member may review it, and it shall be presented to the Assembly at the beginning of its next meeting for its approval. Requests may be made to correct the minutes, and when the General Assembly agrees to make any correction, this shall be recorded in the minutes of the session in which the decision to make the correction was issued and noted in the minutes that are corrected. No amendment may be made to these minutes.

Article (8)

The General Assembly shall review the following matters and issue appropriate decisions therein:

1. The formation of the Chambers of the Court and the distribution of work among them.
2. Settling the matter of assigning counsellors to undertake the legal tasks stipulated by the laws in force.

3. Deciding on requests to assign the counsellors of the Court or members of the Cassation Prosecution to other work in addition to their work or on a full-time basis, as long as this does not conflict with the nature of their work.
4. Setting the dates of sessions.
5. The distribution of work during the judicial recess.
6. The organisation of the dissemination of legal rulings and principles in a periodic collection.
7. Other matters stipulated in the law on the Court or any other legislation.

Article (9)

If one of the counsellors is absent from the Court for emergency or temporary reasons, or due to an impediment, the President of the Court shall appoint a replacement for him.

Article (10)

In matters related to the staff of the Court, the General Assembly shall have the powers regulated by the laws pertaining to employee affairs.

Part (2)

Proceedings before the Chambers of the Court

Chapter (1)

The Combined Chambers

Section (1)

Procedures for Constitutional Appeals

Article (11)

The Combined Chambers shall convene as a Constitutional Chamber to adjudicate the appeals and matters stipulated in Article (23), Clauses (1) and (2) of Law No. (6) of 1982 on the reorganisation of the Supreme Court, as amended by Law No. (17) of 1423 FBP.

Article (12)

Constitutional appeals shall be filed via a notice of appeal signed by a lawyer admitted before the Supreme Court; the original copy shall be submitted to the competent registrar along with a sufficient number of copies.

Article (13)

This notice shall include information on the names of the parties to the dispute, their capacities, and their places of residence; the legal text that is being appealed and the grounds upon which the appeal is based; and supporting documents.

Article (14)

The appellant must inform all parties to the dispute against whom the appeal is brought of the notice of appeal and its addenda within twenty days of the date on which it is submitted. He must file the original notification with the Court Registrar within twenty days of the date on which the abovementioned period ends.

Article (15)

Within thirty days of the date on which they are informed of the matter, the parties against whom the appeal is brought may submit to the competent Court Registrar a defence memorandum signed by a lawyer admitted before the Supreme Court and including the supporting documents that they wish to present.

Within fifteen days of the end of the period mentioned in the preceding paragraph, the appellant may submit to the competent Registrar a memorandum of reply, including any supporting documents he may have.

If the appellant exercises his right to reply, the other parties may, within fifteen additional days, submit a rejoinder to the appellant's response, along with their supporting documents.

In all cases, the memoranda and supporting documents must be submitted with a sufficient number of copies.

Article (16)

Upon the expiry of the periods referenced in the preceding two articles, the competent Registrar shall present the file of the appeal to the President of the Court for him to order that it be referred to the Cassation Prosecution, in order for it to submit a memorandum outlining its opinion on the matter within a period determined by the President. After the memorandum is submitted, the file shall be referred to one of the members of the Combined Chambers for him to compile a report including the facts and legal issues under dispute.

Article (17)

Prior to preparing the summary report, the judge-rapporteur may conduct an investigation into the facts as he deems necessary. He may also order that the parties to the dispute, or others as he sees fit, be summoned to present their statements or be instructed to submit supplementary memoranda or additional supporting documents.

After the case has been prepared, it shall be submitted to the competent Court Registrar, who shall present it to the President of the Court in order for him to schedule a hearing to review the case within one month at most. The parties to the dispute shall be informed of the date of this hearing by bailiff or registered letter accompanied by an acknowledgement of receipt, prior to the date of the hearing by at least fifteen days.

Article (18)

The Court shall rule on the case after reading out the summary report and listening to the pleadings and the statements of the Cassation Prosecution.

Article (19)¹

If the legal matter pertaining to the Constitution or its interpretation has been raised by one of the parties in a case that is being heard by any court, and if it is seen to be essential to the case, the court shall postpone review of the case and set a date within three months for the person

¹ Amended by Decision No. (285), issued by the General Assembly in its session of 25/06/2005.

who raised the argument to bring the case before the Supreme Court regarding the matter in question.

In cases brought in such instances, the procedures for constitutional appeals established in the present Rules of Procedure shall apply.

If the case is not brought by the designated date, it shall be considered as if the matter never existed.

Article (20)

Rulings establishing unconstitutionality shall be published in the Legal Register.

Section (2)

Procedures for Settling Conflicting Jurisdiction and Contradictory Rulings

Article (21)

The Combined Chambers shall undertake to appoint the competent court in cases brought in relation to a single matter before the courts and before an exceptional judicial body, if one or both of them does not relinquish jurisdiction to review the case.

The Combined Chambers shall also undertake to settle disputes arising from the implementation of two contradictory final rulings when one ruling is issued by the courts and the other by an exceptional judicial body.

Article (22)

The request to settle disputes as described in the previous article shall be brought to the Supreme Court in the form of a petition signed by the Public Prosecution or an attorney, according to the circumstances, which shall be filed with the Court Registrar. It must contain, in addition to the information on the names of the parties, their capacities, and their places of residence, the subject of the request and sufficient information about the case in which the conflict or relinquishment occurred, or about the two contradictory rulings.

The person making the request must submit, along with this petition, a sufficient number of copies of the petition, a portfolio of documents supporting his request, and a memorandum defending it.

The Court Registrar must inform the parties with a copy of the petition and instruct them to attend the hearing that is set to review the case. No fee shall be charged for this request.

The filing of this request shall halt the proceedings in the case about which the request to appoint the competent court is presented. The Court may order that the implementation of one or both of the contradictory rulings be halted until it settles the matter under dispute.

The Court shall decide on the request expeditiously, after a memorandum stating the opinion of the Cassation Prosecution is presented.

Part (3)

Procedures for Deviating from the Principles Established by the Chambers of the Court

Article (23)

If one of the chambers of the Court deems it appropriate to deviate from a legal principle established by previous rulings, it shall put a halt to the proceedings in the case in question and refer it to the Combined Chambers, along with a memorandum explaining the reasons and justifications that led to the request to deviate from the established principles.²

Article (24)

The Registrar shall present the file to the President of the Court, who shall refer it to the Cassation Prosecution to prepare a memorandum explaining its opinion by the date set by the President. After the Cassation Prosecution submits its memorandum, the President of the Court shall refer the file of the case to the judge-rapporteur and specify the hearing at which the request shall be reviewed. The Court may authorise representatives of the parties who are lawyers admitted before the Court to express their points of view regarding the request.

Article (25)

The principle established by the Combined Chambers shall apply to all appeals that are reviewed following its issuance, unless the matter relates to jurisdiction, dates and procedures, or ways to appeal. The principle shall only apply to cases and appeals filed following its issuance.

If the principle includes a rule that is more beneficial for the accused person, it alone shall be applied.

Chapter (2)

Procedures before the Other Chambers of the Court

Article (26)

Cassation Chambers shall be formed in personal status, civil, administrative, and criminal matters, in accordance with the stipulations of the Supreme Court Law.

The Chambers shall adjudicate cases referred to them, in accordance with the distribution of work set out by the General Assembly of the Court.

Article (27)

In matters of dates and procedures for the appeals referred to in the previous article, the provisions that appear in the Code of Civil and Commercial Procedure, the Code of Procedure before Sharia Courts, the Code of Criminal Procedure, and Law No. (88) of 1971 on the administrative judiciary shall be applied.

Article (28)

Appeals to decisions over which certain laws stipulate that the Supreme Court shall have jurisdiction to adjudicate shall be brought before the Administrative Chamber, in accordance

² Amended by a Decision of the General Assembly of the Court on 05/03/1373 FDP, corresponding to 2005 AD.

with the procedures and dates established in Law No. (88) of 1971 regarding appeals to administrative decisions before the appellate courts.

Part (3)

Fees and Related Procedures

Article (29)

A set fee of 100 Libyan dinars shall be imposed for appeals and lawsuits brought before the Supreme Court, and this fee shall be paid at the time that the appeal is lodged. The Registrar shall not accept the appeal if it is not accompanied by proof that this fee has been paid to the treasury of the Court.

Article (30)

The fee referred to in the previous article need not be paid in the following two cases:

1. Appeals that are brought against verdicts issued in criminal matters;
2. Appeals that are brought against rulings issued in ancillary civil claims, if the appeal is connected with an appeal against the verdict issued in the criminal case.

Article (31)

A set fee of 30 LYD shall be imposed for all requests to stay execution of a ruling that is being appealed.

The fee shall be multiplied by the number of parties included in the request.

No hearing shall be set to review the request until this fee has been paid to the treasury of the Supreme Court.

The provision of the second paragraph of this article shall not apply to requests to stay execution that were presented prior to the issuance of these Rules of Procedure.

Article (32)

A fee of one LYD per page shall be imposed on copied of rulings, certificates, summaries, and other documents that are requested from the Supreme Court. Part of a page shall be considered as a full page.

Article (33)

The bodies for which the law provides an exemption shall be exempted from paying the fees established under these Rules of Procedure. Appeals and requests to stay execution that are brought in relation to cases that do not require fees according to the Judicial Fees Law or any other law shall also be exempted, subject to the provisions regulating the same in these laws.

Article (34)

Proportional fees shall be adjusted based on the provisions of the Judicial Fees Law, as does not contravene the provisions of any other law that imposes a higher fee.

Part (4)
Records, Files, and Documentation

Chapter (1)
Records

Article (35)

Every type of appeal over which the Court has jurisdiction shall have the following records:

1. A general record:

This record shall record appeals according to the date on which they are received, numbering them consecutively. It shall include the number of the appeal, its judicial year, the date of entry, the names of the parties, the name of the court whose ruling is being appealed, the case number, the date of the ruling that is being appealed and its contents, the date on which the person against whom the appeal is brought was notified, the subject of the appeal, the hearing set to review the appeal, the date on which the ruling was issued in the appeal, its verdict, and a statement of the fees that were paid.

For criminal appeals, an additional statement shall be recorded including the date on which the appeal was decided, the date on which the file was provided by the court whose ruling is being appealed, and the date on which the file was returned to the court.

2. An index record:

The index record shall show the names of the parties in alphabetical order, and the number of the appeal.

3. A record enumerating the rulings:

This record shall record the rulings by numbering them consecutively according to the date on which they were issued. It shall include the number of the appeal in the general record, the names of the parties, the operative part of the judgment, the date of its issuance, the name of the judge-rapporteur, a record of fees and whether they were paid, and the date on which the file of the appeal was submitted to the archive.

4. A record enumerating the requests to stay execution:

This record shall record requests to stay execution by numbering them consecutively according to the date on which they were received. It shall include the number of the appeal to which the request is related as per the general record, the names of the parties, the subject of the request, the date of the session that was set to review the request, the operative part of the decision, the date on which the decision was issued, and record of the paid fee.

5. Minutes of the sessions of the Chambers:

The minutes shall include the number of the case as per the general record, its year, the name of the court that issued the ruling that is being appealed, the names of the parties, the date of the hearing set to review the appeal and what happened at this hearing, the date of the previous hearing, and a summary of the ruling or decision that was issued in the case.

6. A record of the requests for judicial assistance:

This record shall record these requests by numbering them consecutively. It shall include the date on which the request was presented, the names of the parties, the date on which

the parties were notified, the decision that was issued regarding the request, and the date of this decision.

7. A record to archive cases:

This record shall record the number of the case, the date on which it was submitted to the archive, the date of the ruling, and a statement of the date on which the file was returned to the court from which it originated.

8. A record of requests for copies of rulings:

This record shall register such requests by numbering them consecutively. It shall include the registration number of the case in the general record, the name and surname of the requester, the name and surname of the other party, a statement of the rulings and the documents for which copies were requested, the date thereof, the date of the request for copies, the date on which the copies were provided, the signature of the recipient, and a statement regarding the fee owed.

Article (36)

Records on the work of the Cassation Prosecution shall be established and organised by a decision issued by the President of the Prosecution.

Article (37)

Other records may be established by a decision issued by the President of the Court, if required for the sake of the work.

Chapter (2)

Files

Article (38)

A file shall be prepared for every case, on the outside of which shall appear the case number as per the general record, the names of the parties and of their representatives, the subject of the lawsuit, a statement of its proceedings, the date on which a hearing was set for the request to stay execution, the decision issued on this request, the date of the hearing that was designated to review the matter, the date on which the ruling was issued, the verdict, and the date on which the reasoning was submitted.

The file shall be submitted along with every document required by law. After the registrar of the chamber dates them with the date of submission, a report of submission shall be drafted including the case number, the name and capacity of the submitter, the date and time of submission, and a statement of the documents submitted. The registrar shall then sign the report.

Inside the file shall appear a statement of the documents submitted with the file, numbered consecutively, and the date of their submission.

Chapter (3)

Documentation

Article (39)

Supporting documents shall be presented by the parties to the registrar of the competent chamber in a portfolio that includes the original documents and a number of copies equal to the number of members of the chamber and parties to the case. A statement shall be attached to the cover of the portfolio including the date and contents of each document, numbered consecutively. The original shall be kept in the case file.

Article (40)

The supporting documents shall not be returned until after a ruling is issued in the case and a draft of the ruling is deposited. If it is necessary that the documents be recovered prior to the issuance of the ruling, they may be returned with written permission from the president of the chamber.

Article (41)

The lawyers and parties may only review the supporting documents within the court building and under the supervision of the competent employee.