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HIGH JUDICIAL COUNCIL

DECISION

**ON THE RULES AND THE PROCEDURE FOR THE ASSIGNMENT OF A JUDGE FOR THE ADJUDICATION OF A
SPECIFIC CASE IN ANOTHER COURT, DIFFERENT FROM WHERE EXERCISING THE FUNCTION
PERMANENTLY**

The High Judicial Council, based on articles 4/3, 147/1, 147/a, point 1 letter “a” of the Constitution of the Republic of Albania, articles 2 and 89 of the Law no. 115/2016 “On governance institutions of the justice system” in cases when the delegation scheme and the temporary transfer are insufficient to respond to the current needs of the courts, with the authority deriving from the Constitution to ensure independence, accountability and the progress of the judiciary power,

DECIDED

I. Object

1. The purpose of this decision is to lay down detailed rules on the criteria and procedure for appointing a judge for the adjudication of a specific case in a court other than that in which he or she exercises his or her permanent function.

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II. Scope of application

This decision applies in case of the impossibility of implementing Articles 45 and 46 of the Law No. 96/2016 “On the status of judges and prosecutors in the Republic of Albania”.

III. Definitions

In this decision, the following terms have these meanings:

1. “Assignment of a judge for the adjudication of a specific court case” means the assignment of a judge from the court where he/she exercises permanently his/her function, to another court, where the latter has a specific need related to the adjudication of one or more court cases.
2. “Court needs” means the absence or legal unavailability of the judges of a court for the adjudication of one or more court cases.

IV. Principles and criteria for assigning a judge for adjudication of a specific case in another court different from where exercising the function permanently

1. The process of assigning a judge for the adjudication of a specific case in another court different from where exercising the function permanently, is carried out in accordance with the principles of independence, impartiality, immobility and transparency, and the constitutional obligation for the progress of judicial power.
2. The assignment of a judge for the adjudication of a specific case in another court different from where exercising the function permanently, shall be made by a decision of the High Judicial Council on the basis of a lot drawn between court judges of the same level of adjudication.
3. In assigning a judge for the adjudication of a specific case in another court different from where exercising the function permanently, the High Judicial Council considers the progress of the judicial system as a whole, the situation in the courts between which it happens the assignment of a judge, and the individual workload of the judge to be assigned.
4. As a rule, the High Judicial Council may not assign a judge to more than one court in the same period of time. In exceptional cases referring to needs and urgency, the Council may otherwise dispose.

5. The High Judicial Council in assigning a judge for the adjudication of a specific case in another court different from where exercising the function permanently, takes into account the extent of the criteria as follows:
- a) the geographic proximity of the court in need with the one to which the judge is assigned;
 - b) jurisdiction at the level of appeal of the court in need and the one from which the judge is assigned;
 - c) the subject matter of the court case for the adjudication of which the court is in need;
 - ç) division into chambers and sections of the court from which the judge is assigned;
 - d) the workload of the judges of the court from which the judge is assigned;
 - e) equal distribution and effective assignment of judges;

V. Submission of a request for the assignment of a judge for adjudication of a specific case in another court different from where exercising the function permanently

1. The Chairperson shall, no later than three working days from the verification of a specific need, address the High Judicial Council on the assignment of a judge for the adjudication of one or more court cases.
2. The request is submitted according to the form attached to this decision.

VI. Review of a request for the assignment of a judge for adjudication of a specific case in another court different from where exercising the function permanently

1. The Career Development Committee reviews the request for assignment of a judge for the adjudication of a specific case in another court different from where exercising the function permanently, depending on its degree of urgency.
2. The Career Development Committee requests and receives from the chairmen of the courts the necessary information pursuant to Article 5, point 4, letters “ç” and “d” of this decision.
3. The Career Development Committee for ease of treatment processes the necessary data in tabular form.
4. For a request or a group of requests submitted by the same court for assignment of a judge, the Career Development Committee prepares a written report, through which, in pursuance of the

criteria of this decision, proposes to the High Judicial Council the courts from which will be selected, by lot, the judges to be assigned for their judgment, and the respective number of judges.

5. The High Judicial Council assesses the compatibility of the Career Development Committee's proposal with the criteria set out in this decision, approving the Committee's proposal or deciding in a different way.

VII. Assignment of a judge for the adjudication of a specific case in another court different from where exercising the function permanently

1. Assignment of a judge for the adjudication of a specific case in another court different from where exercising the function permanently, as a rule, if possible, is made through electronic lot. When this is not possible, the selection of the judge is made through the manual lot.
2. If the court's need consists only of a particular court case, the judge assigned to its trial shall be selected by lot from the judges of the court as previously determined.
3. The High Judicial Council based on the principle of effectiveness may appoint a judge for the adjudication of more than one issue in the same court. The Council evaluates the complexity and the number of cases where the judge may be assigned.
4. In the case of the appeal court needs for a particular case consisting in the assignment of more than one judge to its trial, as a rule, the selection by lot of a judge by the judges of the appeal court previously determined means the selection by lot for the trial of that court case, and other judges who are in the same panel with the first elected judge. When the need consists in the assignment of two judges, except the first judge selected by lot, the other judge is assigned by selection, through the lot, between the other two judges of the trial panel where the first selected judge is a member.
5. The procedures set out in Article 9 of this Decision shall be followed for the lot.

VIII. Exclusion of a judge from the assignment for the adjudication of a specific case in another court different from where exercising the function

1. Any judge identified as having a legal impediment to adjudicate a specific court case shall be excluded from the lot.
2. The High Judicial Council shall decide on a maximum of three months of exclusion for a judge who is assigned to adjudicate 10 court cases or 5 cases in the courts for serious crimes.

3. The chairperson of the judicial district court and the appeal court, as a rule, are excluded from qualification as a judge who meets the criteria to be assigned for adjudication of a specific court case due to other responsibilities arising from the exercise of their respective function. Exceptionally, for objective reasons, he/she is included in the lists of judges assigned to the trial of specific court cases at 50% of the volume of cases.
4. A member judge of the Electoral College during the election year due to the load on electoral disputes shall, as a rule, be excluded from qualification as a judge who meets the criteria to be assigned for the adjudication of a specific court case. Exceptionally, for objective reasons, he/she is included in the lists of judges assigned to the adjudication of specific court cases at 50% of the volume of cases.
5. A judge member of the Justice Appointment Council, due to other responsibilities arising from the exercise of the respective function, as a rule, is excluded from qualification as a judge who meets the criteria to be assigned for the adjudication of a specific court case. Exceptionally, for objective reasons, he is included in the lists of judges assigned to the adjudication of specific court cases at 50% of the volume of cases.
6. Upon a motivated request of a judge and accompanied by the necessary proof acts, the High Judicial Council may, for health reasons, impose a six-month exclusion of a judge from the list of judges assigned to the trial of special court cases.

IX. Procedure of manual lot

1. Through lot procedures one or several judges are randomly selected for the adjudication of a special court case of the court in need.
2. In each lot procedure, there are first identified the judges that meet the criteria for adjudicating a special court case, noting their names on identical strips of paper, writing style: *times new roman 14, bold*.
3. Then, the special court case is identified through a natural number placed on the spot, noting it on identical strips of paper, writing style: *times new roman 14, bold*.
4. The strips of paper are verified for their accuracy by the administration employee. After verification, the latter folds the strips in the same way and puts them in the relevant boxes by mixing them, in order to guarantee random selection.
5. When the court need consists only in a special court case, after mixing the strips in the respective box with the names of the judges, one of the strips of paper is withdrawn through which the judge selected from the lot is identified for the adjudication of that court case and the employee of the administration declares his/her name loudly.

6. When the court need consists of a limited number of court cases, for which the High Judicial Council has ruled their decision by a single judge, after mixing the paper strips in the respective box with the names of the judges, it is withdrawn one of the strips through which it is identified the judge selected from the lot for the trial of those court cases and the employee of the administration declares his/her name loudly.
7. When the need of the court consists of several judicial cases, for which the High Judicial Council has decided their judgment by more than one judge, the lot is held according to the following steps:
 - a. Initially, after mixing the paper strips in the respective box with the names of the judges, strips are drawn to the number corresponding to the number of judges that the Council has decided, strips through which there are identified the judges selected from the lot for the trial of those court cases and the employee of the administration declares loudly their names.
 - b. The lot continues by inserting the paper strips with the names of the judges selected in this way in a special box.
 - c. Further, the lot continues with the mixing of the paper strips in the relevant box with the number of court cases, drawing one of the strips, through which it is identified the number of the court case (set at the beginning of the lot procedure) that is selected from the lot and the employee of the administration declares it loudly.
 - d. The lot continues with the mixture of paper strips in the box with the names of judges by drawing one of the strips, which is declared loudly by the employee of the administration. The judge, whose name is noted on the drawn strip is considered as selected from the lot for the court case whose strip has been previously drawn.
 - e. In this way the lot procedure continues for all the court cases for which lot is held.
 - f. In cases when the number of court cases for which the lot is to be drawn is greater than the number of judges, the lot continues by re-inserting the strips with the names of judges in the respective box.
8. In the case of the appeal court needs for the assignment of two judges for a specific court case following the selection of a judge according to the procedure set forth in point 7 of this article, the other judge shall be elected through the lot between two other judges of the trial panel where the selected judge is the first between the other two judges of the trial panel where the first selected judge is a member. In this case, the names of the other two judges are noted on paper strips as above, then inserted in a separate box, where after their mixing, the employee of the administrator withdraws one of them and declares the name of the judge loudly which is considered as being selected from the lot for that special court case.

X. Notification of the decision to assign a judge for the adjudication of a specific case in another court different from where exercising the function permanently

The decision of the High Judicial Council shall be communicated to the Chairperson of the court in need and to the assigned judge.

X/1. Provision for the High Court

1. This decision shall also apply to the High Court until a Trial Panel is operational.
2. “Needs of the High Court” within the meaning of this judgment shall be considered only those relating to the adjudication of judicial matters relating to jurisdictional relations with foreign authorities, exclusively the extradition and transfer of convicted persons for which the letter "c", paragraph 3, of Article 462 of the Code of Criminal Procedure provides that the final and enforceable decision is the decision of the High Court.
3. The High Judicial Council shall be set up at the request of the Chancellor of the High Court.
4. Judges who are assigned to the High Court for specific court cases shall be selected by lot from among the judges of the courts of appeal, who have at least 13 years of experience in the exercise of their profession, and have successfully passed the transitional reassessment process according to Law no. 84/2016, “On the Provisional Reassessment of Judges and Prosecutors in the Republic of Albania”.

XI. Calculation of Expenses

1. Payment of costs in case of assignment of a judge for the adjudication of a specific case in another court different from where exercising the function permanently, will be made on the basis of the legislation in force.

XII. Entry into force

This decision shall enter into force after the publication in the Official Journal.