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Consolidation of the  
Justice System in Albania

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**HIGH JUDICIAL COUNCIL**

**DECISION**

**ON UNPAID LEAVES OF JUDGES WHICH ARE ISSUED BY THE HIGH JUDICIAL COUNCIL**

The High Judicial Council, based on Article 147 of the Constitution of the Republic of Albania, Articles 62, 97, 98 of Law no. 115/2016 “On governance institutions of the justice system”, Article 24 of Law no. 96/2016 “On the status of judges and prosecutors in the Republic of Albania”, Labour Code of the Republic of Albania, upon the proposal of the Committee on Ethical and Professional Evaluation,

**I. General provisions**

This decision aims to define more detailed rules regarding:

the criteria on granting unpaid leave by the High Judicial Council to all judges exercising their function as part of the judicial system in the Republic of Albania. The unpaid leaves for the seconded judges are given by the institution where the seconded judge serves.

procedures followed by the High Judicial Council on granting unpaid leaves.

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## **II. Definitions**

In this decision the following terms have these meanings:

“leave’ is the authorization in writing issued by the High Judicial Council for the judge not to be present in office for a certain period of time;

“unpaid leave” is the leave for which the judge is not paid during its duration;

“Council” is the High Judicial Council;

“Relevant Committee”, is the Committee for the Committee on Ethical and Professional Evaluation;

“Chairperson of the Court” is the Chairperson of the Court where the judge exercises the function.

## **III. Main principles**

3. The judges, as they submit the requests for leave, and the Council during their examination, shall be guided and aim at the appropriate and balanced implementation of the following principles:

the principle of promoting professionalism and career development, according to which, the judge is encouraged to give importance to the professional values and work quality, in the function of professional career development;

principle of efficacy, according to which the courts should be functional for the fulfilment of the mission of rendering justice;

protection of the right for private and family life, protecting confidentiality, accordingly.

## **IV. Types of unpaid leaves**

4. Unpaid leaves granted to the judges by the High Judicial Council are the following:

Parental leave;

Leave for qualification and specialization purposes in a training institution, outside the period of continuous training;

Leave for family and/or health reasons.

## V. Criteria and procedures on granting parental leaves

5. Parental leave shall be granted by the Council to a judge who has held office for more than one continuous year, as follows;

For a period of not less than 4 months and not more than two years in total for each child, until the dependent child reaches the age of 6 years old. Exceptionally for serious and motivated cases, this term may be extended by the High Judicial Council.

The right to apply for parental leave is individual for each parent and is not transferable unless one parent dies. The leave may be granted separately, but not less than one week per year;

In the case of child adoption, parental leave is granted within 6 years of the child's adoption, but not after the child reaches the age of 12;

ç. The judge requesting this leave shall submit the written request to the Council at least 30 days prior to the time when such leave is sought and determine its duration. Along with the request, the judge shall present the supporting documentation and the written opinion of the chairperson of the court;

The request of the judge shall be dealt with by the relevant Committee, which shall, within 7 days, forward to the Plenary Meeting the proposal for the approval of the leave and the term for its commencement. The Council shall decide on this request within 15 days of the submission of the proposal. In the decision on granting leave, the Council shall also state whether the lot shall be drawn again or not for the cases that the judge is currently reviewing.

In the event of a breach of functionality or performance of the task efficiently and in a timely manner, the Council may extend the leave starting date up to 6 months.

## VI. Criteria and procedures on granting leave for qualification and specialization purposes

6. The leave for qualification and specialization purposes in a training institution shall be granted by the Council for a period not exceeding two years, as follows hereunder:

The judge requesting this leave shall submit a written request to the Council at least 30 days prior to the time when such leave is sought. The request shall include a description of the reason for attending this training, the term of the leave, and details of the training institution. The request must be accompanied by the supporting documentation and the written opinion of the chairperson of the court on whether the court's functionality is infringed or not;

The request of the judge shall be dealt by the relevant Committee, which shall, within 7 days, forward the proposal for approval or refusal of the leave to the Plenary Meeting. The Council shall decide on this request within 15 days of the submission of the proposal;

This leave may be granted at the same time, or at different times, at the request of the judge, but in total for no more than 2 years. In the decision on granting leave, the Council shall also state whether the lot shall be drawn again or not for the cases that the judge is currently reviewing;

ç) The Council may refuse the request for this leave if the professional qualification or specialization does not comply with the judge's function, or if it falls into contradiction with the principal interests of the function and endangers the performance of the function efficiently and on time.

## **VII. Criteria and procedures on granting leave for family and/or health reasons**

7. The leave for family and/or health reasons for up to 30 days, according to Article 96, paragraph 2 of the Labour Code, is granted by the Chairperson of the Court, while for the Chairperson of the Court himself, the leave is granted by the relevant Committee.

8. Leaves for family and/or health reasons for a period of 30 days to 2 years shall be granted by the Council as follows:

The judge requesting this leave shall submit a written request to the Council at least 30 days prior to the time when such leave is sought to start. In case of urgent needs, the request is submitted immediately without delay. The application must contain a description of the reason and the term of the requested leave. The request must be accompanied by the supporting documentation and the written opinion of the chairperson of the court on whether the court's functionality is infringed or not;

The request of the judge shall be dealt by the relevant Committee, which shall, within 7 days, forward the proposal for approval or refusal of the leave to the Plenary Meeting. The Council shall decide on this request within 15 days of the submission of the proposal;

This leave may be granted at the same time, or at different times, at the request of the judge, but in total for no more than 2 years. In the decision on granting leave, the Council shall also state whether the lot shall be drawn again or not for the cases that the judge is currently reviewing;

ç) The Council may refuse the request for this leave, on the principle of proportionality, respecting the right to private and family life, and without jeopardizing the performance of the function efficiently and on time.

**VIII. Transitory and last provisions.**

9. The unpaid leaves granted by the former High Council of Justice shall continue to be applied under the conditions set forth therein.

This decision shall enter into force after the publication in the official website of the Council.