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HIGH JUDICIAL COUNCIL

REGULATION

ON THE CRITERIA AND THE PROCEDURE ON THE FUNCTIONING OF THE MOBILITY SCHEME OF THE JUDGE

The High Judicial Council, based on article 147 of the Constitution of the Republic of Albania, article 2 and 89 of Law no. 115/2016 “On the governance bodies of the justice system”, and article of Law no.96/2016 “On the Status of the Judges and Prosecutors in the Republic of Albania”,

Article 1

Scope

1. The scope of this regulation is the determination of the detailed rules on the criteria and the procedure for the functioning of the mobility scheme and the service in it, according to article 45 of Law no. 96/2016 “On the Status of Judges and Prosecutors in the Republic of Albania”.

Article 2

Subjects

1. The subjects of this regulation are the judges, who exercise their function at the first instance courts and at the courts of appeal, whose function is not limited due to the grounds provided for in the law.

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Article 3

Definitions

1. In this regulation, the terms herein mean as follows:
 - a) “Mobility scheme” is the entirety of the secondment rules of the judge by the court where he has been appointed permanently, in the mobility scheme established attached to the High Judicial Council (hereinafter the Council), for a certain period of time, and of his service in the function of this scheme to adjudicate cases in any court.
 - b) “Mobility” is the assignment by the Council of the judge in the mobility scheme for the adjudication of the judicial cases in courts.
 - c) “Giving the consent” is the expression of the will to be included in the mobility scheme documented with the submission of the statement in writing according to the template attached to this regulation.
 - ç) “Needs of the court” means the legal absence or unavailability of the judges of a court for the adjudication of one or several legal cases.

Article 4

Criteria for running the candidacy in the mobility scheme

1. Any judge who meets the following criteria runs the candidacy in the mobility scheme:
 - a) to have given the consent to be seconded to the mobility scheme;
 - b) to have not less than a year of experience in his function;
 - c) not to be under the effects of a disciplinary measure, whose enforcement may be avoided due to the inclusion in the mobility scheme;
 - d) not to exercise the function of the Chairperson or of the Deputy Chairperson;
 - e) not to be assigned permanently in a court where secondment impinges its functionality.
 - f) not to be exercising his function as a judge in another court due to the temporary transfer with or without the consent.

Article 5

Principles on the functioning of the mobility scheme

1. The judge shall be seconded to the mobility scheme for a period of time approved by the Council, but in any case, not less than 6 months. The judge may be seconded to the mobility scheme several times providing that the total service period does not exceed 5 years.
2. At the end of the secondment period, the judge returns to the previous position.
3. The judge who serves in the mobility scheme may be appointed by the Council to adjudicate cases in any court including even the court he comes from. As the judge in the mobility scheme waits to be assigned for the adjudication of one or more cases, he shall serve in the administrative structures of the Council.
4. The assignment of the seconded judge to adjudicate cases is carried out through a lot by the Council.

5. After the secondment to the mobility scheme, the judge is excluded from the lot of the Court he comes from, but he continues the adjudication of the cases under examination until he finishes them.
6. The judge who serves in the mobility scheme shall report every month to the Council regarding the progress of the work.

Article 6

Call for running the candidacy

1. The judges may express the interest to be seconded to the mobility scheme, running the candidacy at any time. When the Council notices that the current number of the judges who serve in the scheme is insufficient to respond to the received requests or to the expected ones for mobility, the Council may invite the judges to run to become a part of the mobility scheme.
2. The call for running the candidacy shall be made public on the official web page of the Council. A copy of the notification shall be sent to the chairpersons of all the courts.

Article 7

Submission and registration of the candidacy

1. The judge, who runs the candidacy, shall file the documentation to the Career Development Commission in the Council, via the mail, electronic mail or in person.
2. The documentation shall be registered and administered by the Commission of the Career Development Commission.
3. The Career Development Commission shall create and maintain a special register for the candidacies.

Article 8

Preliminary verification on the fulfilment of criteria

1. The Career Development Commission shall verify preliminarily the fulfilment of the criteria of the candidacy.
2. The Commission shall propose to the Council the acceptance or the objection of the inclusion of the judge in the mobility scheme.

Article 9

Inclusion of the judge in the mobility scheme

1. The Council shall decide to accept or to refuse the candidacy of the judge in the mobility scheme upon the proposal of the Career Development Commission.

2. The decision on being accepted in the mobility scheme shall determine the time limit during which the judge shall serve in the scheme. This time limit shall be determined based on the needs specified by the Council.
3. The decision of the Council shall be notified to the respective judge according to the provisions of article 98 of Law no. 115/2016 “On governance institutions of the justice system”. A copy of the notification shall be sent to the chairperson of the court.

Article 10

Requests for the assignment of the judge from the mobility scheme

1. The chairperson of the court in need shall ask the Council to assign a judge from the mobility scheme according to the template attached to this Regulation.
2. The request shall be submitted to the Career Development Commission and shall be registered in a special register which is created and administered by the Career Development Commission.

Article 11

Preliminary review of the request for the assignment of a judge

1. The Career Development Commission shall review preliminarily if the request of the chairperson of the court for the assignment of the judge identifies clearly the need and if it meets the formal conditions to continue treating it.
2. In case the request for the assignment of a judge does not meet the formal conditions, the Career Development Commission shall request to the chairperson of the court to complete the shortcomings immediately. In case the shortcomings are not completed within 24 hours from the moment of the notification, the Commission shall propose to the Council the refusal of the request.
3. In case the request for the assignment of a judge from the mobility scheme meets the formal conditions for the continuity of its treatment, the Career Development Commission shall propose to the Council the acceptance of the request.
4. The proposal shall be accompanied with the list of the judges who are a part of the mobility scheme identifying the ones who meet the evaluation criteria according to this regulation.

Article 12

Evaluation criteria

1. According to the request of the court in need, the Career Development Commission shall draft a list with the judges who are part of the mobility scheme, who may be included in the lot evaluating the following criteria:
 - a. to meet the requests for the position in the court in need;

- b) to have the professional experience according to the identified need;
- c) to have an equal or averagely the same workload with each other; or not to have comparatively much higher workload than the other judges who serve in the scheme;
- ç) to be appointed in the same way to the most remote courts;
- d) to be assigned, for as much as it is possible, within the territorial jurisdiction of the court of appeal, which includes the court he comes from, or to a territorial jurisdiction close to it.

Article 13

Procedure of the Lot

1. Within 3 days after having received the request for the assignment of the judge from the mobility scheme, the Council shall carry out the lot procedure for the random selection of the judge.
2. The Council upon the proposal of the Career Development Commission, shall approve the list with the names of the judges from the mobility scheme, who are included in the lot.
3. The lot shall be carried out electronically and if the latter is not available, the lot shall be carried out manually. This process shall be carried out by the assisting staff of the Council.
4. The lot carried out manually shall be held according to the following procedure:
 - a) the name of the judge shall be noted down in an equal paper stripe, with the letters in *times new roman 14, bold*.
 - b) the employee of the administration shall verify the accuracy of the stripe and shall fold it uniformly putting it inside the respective box.
 - c) after the stripes are mixed, the employee shall read aloud the name of the selected judge.
5. When there is only one judge in the mobility list, who meets the criteria to be assigned, the Council shall decide to assign the judge without the lot.
6. In case of a high number of requests for the assignment of a judge, the Council, for as much as it is possible, shall group them based on the court they come from and the nature of the cases. In this case, the lot shall be drawn to assign a judge for a group of cases in the same court.
7. As soon as the decision of the Council is taken, it shall be communicated to the courts that have requested the assignment of the judges to complete the court body as well as to the judges selected through the lot.

Article 14

Termination of the service in the mobility scheme

1. The service in the mobility scheme shall terminate within the time limit stipulated in the decision of the Council. In this case, the judge shall return automatically to the court where he is appointed without needing a new decision by the Council.
2. Upon the decision of the Council, the service time in the mobility scheme may terminate before the determined time limit:

1. Based on the motivated request by the judge;
 2. When a disciplinary measure is taken, hampering the participation in the mobility scheme;
 3. When a case of the temporary interruption of exercising the function by the judge is verified.
3. In this case, the Council may decide that the judge interrupt immediately the adjudication of the cases that are being reviewed.
4. In justified cases, upon a motivated request and with the approval of the Council, the termination of the service may give its effects before the period determined in paragraph 1 of this article.

Article 15

Benefits due to the participation in the mobility scheme

1. The judge who serves in the mobility scheme shall benefit a compensation according to the provisions of article 15 of Law no.96/2016 “On the Status of the judges and prosecutors in the Republic of Albania”.
2. The experience as a judge in the mobility scheme shall be considered an added value due to the lateral transfer, promotion as well as the periodical ethical and professional evaluation of the judge.

Article 16

Register of the mobility scheme

1. The Council, aiming at the well-administration of the mobility scheme, shall create a special register, which contains information on the judges involved in the scheme, their time in service and their workload.

Article 17

Entry into force

1. This Regulation shall enter into force on the day of its publication in the Official Journal.