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HIGH JUDICIAL COUNCIL

REGULATION

ON THE ORGANISATION AND FUNCTIONING OF THE INTERIM COMMITTEE ON ETHICAL AND PROFESSIONAL EVALUATION IN THE FRAMEWORK OF THE JUDGES' TRANSITIONAL RE-EVALUATION PROCESS

This Regulation is issued pursuant to Law no. 96/2016 "On the status of judges and prosecutors in the Republic of Albania", Law no. 115/2016 "On governance institutions of the justice system", Law no. 84/2016 "On the transitional re-evaluation of judges and prosecutors in the Republic of Albania" and Decision no. 15, dated 22.01.2019 "On the establishment of the Interim Committee on Ethical and Professional Evaluation in the Framework of the Judges' transitional re-evaluation process"

Article 1

Purpose

1. The purpose of this regulation is to stipulate the set of rules for the organization and functioning of the Interim Committee on Ethical and Professional Evaluation in the Framework of the Judges' Transitional Re-evaluation Process (hereinafter referred to as the Committee), and to ensure the administration of Committee's documentation during the performance of its activity in accordance with the legislation in force.

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Article 2

Scope

1. Determination of the responsibilities, duties and relationships of the members of the Committee with the Independent Qualification Commission and the Special Appellate College (hereinafter referred to as re-evaluation bodies), the supporting structure and its administrative staff.
2. Determination of the detailed rules for the creation, handling, circulation, use, storage and archiving of the documentation that is part of the re-evaluation file of the assessee, as well as ensuring the access of interested parties to this documentation.

Article 3

General principles

1. This regulation is based on the general principles provided by the legislation in force, Law no. 96/2016 “On the status of judges and prosecutors in the Republic of Albania”, Law no. 115/2016 “On the governance institutions of the justice system” and Law no. 84/2016 “On the transitional re-evaluation of judges and prosecutors in the Republic of Albania”.
2. The main principles on the basis of which the Committee carries out its activities are: legality, transparency, professionalism, responsibility, independence, integrity, impartiality, non-discrimination, protection of state secrecy, confidentiality and data protection.

Article 4

Organization and functioning of the Committee

1. The Committee shall consist of 5 members who serve as rapporteurs for the deliberation of the draft report on the analysis of the professional skills of judges who are subject to re-evaluation.
2. The rapporteur shall be appointed by lot by the Chairperson of the Committee in the presence of all members of the Committee and the responsible employees/inspectors for the compilation of the draft report on the analysis of professional skills.
3. The Committee shall be assisted in its activities by the support unit for the transitional re-evaluation of judges. The support unit consists of the responsible employees/inspectors designated for the compilation of the draft report on the analysis of professional skills of the assessee.
4. The responsible employee/inspector who prepares the draft report on the analysis of the professional skills of the assessee shall be assigned by lot at the moment of receiving the notification by the Independent Qualification Commission.

5. The lot shall be conducted by the Chairperson of the Committee in the presence of all members of the Committee and responsible employees/inspectors.

Article 5

The Committee Chairperson

1. The Committee Chairperson and the meeting of the Committee shall cooperate on the administrative conduct and activity of the Committee.
2. The Committee Chairperson shall conduct and coordinate the work and activity of the Committee in pursuance of the provisions of the applicable legislation within the limits of its legal powers, other tasks assigned by decision of the meeting of the Committee.
3. The President of the Committee, pursuant to paragraph 1 of this Article, shall perform the following actions:
 - a. take all necessary and appropriate measures to ensure the effective functioning of the Committee;
 - b. coordinate and supervise the activities of the Committee;
 - c. represent the Committee in relation to third parties,
 - d. establish working groups to prepare draft acts, programs, documents or materials necessary to guarantee the exercise of the Committee's activity.
 - e. The Committee Chairperson follows the process of drafting the report on the analysis of professional skills for the re-evaluation of the assesses, since the notification of the list of these subjects by the Independent Qualification Commission, the assignment of the rapporteur and the responsible employee/inspector assigned for the compilation of the draft report on the analysis of professional skills, conducting relevant notices for the conduct of the lottery procedure, conduct of the lottery procedure, collection of legal documents selected during the lot, communication with the courts, checking the accuracy and standardization of the draft report prepared by the officer responsible for the compilation of the draft report on the analysis of professional skills, approval by the Commission, up to the process of inventorying the assessee's file and submitting it to the Independent Qualification Commission.
5. The Committee Chairperson shall present the report before the High Judicial Council.

Article 6

Meetings of the Committee

1. The Committee shall meet whenever necessary. The Chairperson of the Committee convenes the meeting and sets its agenda, date and time.

2. The rules of conduct of the committee meetings shall be the same as those of the plenary meeting of the High Judicial Council in so far as they are applicable.

Article 7

Examination of issues

1. The Chairperson of the Commission shall be responsible for ensuring that the administration takes all necessary measures so that any meeting of the Commission is duly documented through the minutes of the deliberations and, if possible, through the audio system.
2. The Commission shall have the right to request any documentation deemed necessary and auxiliary to its operation under the law. Assistance from the administration of the Council may also be sought in examining issues.
3. Every member of the Committee shall have the right to be heard in his opinion on the issue being discussed.

Article 8

Decisions of the Committee

1. After reviewing the draft report on the analysis of the professional skills of the assesses, the Committee shall decide on its approval by a majority vote of the members present.
2. The Chairperson of the Committee shall vote last. When the votes are split evenly, the vote of the chairperson is decisive.
3. The Committee may decide on other issues related to the evaluation of the ethical and professional activity of judges as subjects of re-evaluation.

Article 9

Minutes of the meeting

1. At the meeting of the Committee, a summary minutes containing the date of the meeting, the issue to be discussed, the attendance, the invitees, the summary of the deliberations, the views of the members and the result of the vote, may be kept.
2. Minutes with the draft summary of the deliberations of the meeting shall be signed by the chairperson and made available to all members within 5 days of the meeting.
3. Minutes of meetings of the Committee, when kept, shall be documented and deposited in the archive and shall be part of the file of the acts of the Committee at a meeting.
4. Any member of the Committee present at the meeting may point out inaccuracies in the contents of the summary minutes and request the chairperson, by written request, to correct it.

Article 10

Preliminary actions for distribution of documentation

1. The re-evaluation employee responsible/person designated by the Chairperson of the Committee shall be responsible for carrying out all procedural actions under point 4 of Article 5 of this Regulation and Annex 1.
2. The rapporteur and the responsible employee/inspector shall be responsible for the file and documents on the basis of which the draft report on the analysis of the professional skills of the assessee is drawn up.
3. The draft report on the analysis of professional skills is drafted by the responsible employee/inspector and checked for accuracy and standardization by the responsible rapporteur. This draft report is drawn up in 3 copies and signed by the responsible employee/inspector and rapporteur.

Article 11

Duties of the Supporting Unit

1. The Supporting Unit shall constitute the auxiliary and advisory nucleus and shall support the professional work of the members of the Committee. The Unit carries out advisory and supporting activities in the process of developing the draft report on the analysis of the professional skills, including preparation of materials related to the assessee's file, provision of legal opinions, any other tasks assigned by the rapporteur.

Article 12

Sources of re-evaluation

1. Resources for the re-evaluation of professional skills are those set forth in Article 42 of Law no. 84/2016 "On the transitional re-evaluation of judges and prosecutors in the Republic of Albania".
 - a. Assessee's self-declaration form, 3 legal documents selected by the assessee himself/herself, data and other documents that accompany the subject's self-declaration form (certificates, various evidence, etc.);
 - b. 5 court files/legal documents (for cases where the assessee is not a judge) selected under an objective and random system;
 - c. Data from the archival sources of the High Judicial Council (data on the number of appeals related to the assessee and data from the assessee's personal file).
2. The documents on the basis of which the draft report on the analysis of the professional skills of the assessee is drawn up are:

3. The rules for conducting the draw procedure for the selection of the 5 legal documents of the assessee are those set out in Annex 2 to this Regulation.

Article 13

The procedure of filing the assessee's file

1. The file of the assessee shall be submitted to the Independent Qualification Commission by minutes.
2. Persons submitting the file to the Independent Qualification Commission shall be authorized by the Committee.

Article 14

Communication

Communication between the Committee and the re-evaluation bodies or the courts is made in writing as a rule, but for acceleration of communication, it is also made electronically.

ANNEX 1

The steps followed during the development of the drafting process of the draft report on the analysis of professional skills:

1. The process of drafting the draft report on the analysis of professional skills by the Interim Committee on Ethical and Professional Evaluation in the Framework of the Judges' Transitional Re-evaluation Process (hereinafter the Committee) begins with the electronic communication of the Independent Qualification Commission, where they shall specify the names of the assesseees that will undergo the ongoing re-evaluation process (according to the lot they have performed at their institution).
2. Upon receipt of confirmation by the Independent Qualification Commission, the Chairperson of the Committee shall, through an issued order, forward the file of the assessee to the responsible employee/inspector, who shall deal with the entire procedure that is finalized with the drafting of the draft report on the analysis of professional skills.
3. The assessee's file, which is submitted to the responsible employee/inspector designated by lot for the drafting of the draft report on the analysis of professional skills, contains in advance the self-assessment form submitted by the assessee himself/herself (21.10.2016-31.03.2017) and the accompanying documentation submitted by him/her (pursuant to Article 12, item 2, paragraph 2 of the Regulation).
4. During this stage the statistics are checked by the responsible employee/inspector whether or not they meet the required standard. If not, a letter is addressed to the courts requesting up-to-date statistics.
5. After determining the date and time of the drawing of lots by the Independent Qualification Commission, the Committee shall prepare a letter informing the Chairperson of the court of the date and time of the drawing of lots and the names of the subjects for which the lot will be held. This letter, after being signed and protocolled, is also scanned and emailed to court chairpersons for speed of communication.
6. The administration takes measures to prepare tickets according to the total number of cases for each subject, which are submitted to the responsible re-evaluation employee/inspector.
7. According to the letter, on the date and time specified the lot shall be held in the premises of the relevant court, in the presence of the HJC member and/or the responsible employee/inspector and commissioner of the Independent Qualification Commission, where all proceedings shall be drawn up and minutes shall be signed by all persons present. (according to the lottery rules set out in Annex 2 to this Regulation).
8. On the basis of this minutes, which is mainly emailed directly after the lottery has been conducted by the court administration for speed of communication, the Commission files a request for the selected lottery files addressed to the relevant court.

9. The chairpersons of the courts are expected to respond to the location of the files, which in most cases are located in other courts, and according to the letters or electronic communications setting out the location of the file, the Commission seeks it by letter or by electronic communication.
10. After collecting the 5 selected lottery files by the courts, work continues by the responsible employee/inspector for the drafting of the draft report on the analysis of professional skills.
11. This draft report on the analysis of professional skills after being drafted by the responsible employee/inspector (according to Annex 3 of this Regulation) is checked for accuracy and standardization by the rapporteur.
12. After the draft report on the analysis of professional skills is signed by the rapporteur and the responsible employee/inspector, it is submitted for approval to the Interim Committee meeting.
13. Upon approval, the entire re-evaluation file shall be inventoried on the basis of which the report on the analysis of professional skills is drawn up. This file must contain the following documents:
 - a) The self-declaration form of the assessee, 3 legal documents selected by the assessee himself/herself, data and other documents accompanying the assessee's self-declaration form (certificates, various evidence, etc.);
 - b) 5 court files/legal documents (in cases when the assessee is not a judge) selected under an objective and random system;
 - c) Data from the archive sources of the High Judicial Council (data on the number of appeals related to the assessee and data from the assessee's personal file).
14. The report on the analysis of professional skills together with the relevant file accompanied by the cover letter and the minutes of submission shall be filed with the Independent Qualification Commission and the International Monitoring Operation.
15. The process ends with the submission of files by persons authorized by the Committee to the Independent Qualification Commission and the International Monitoring Operation of all documentation, every sheet of which is taken over through minutes by the representatives of these institutions.

ANNEX 2

RULES

ON LOT SELECTION OF 5 FILES FOR ANALYSIS OF PROFESSIONAL SKILLS BY THE HIGH JUDICIAL COUNCIL IN THE TRANSITIONAL RE-EVALUATION PROCESS OF THE ASSESSEES

Legal basis: Article 43 paragraph 2 of Law no. 84/2016 “On the transitional re-evaluation of judges and prosecutors in the Republic of Albania” and Articles 91 and 171 paragraph 4 of Law no. 96/2016 “On the status of judges and prosecutors in the Republic of Albania”.

- **PRACTICAL ISSUES**

Preparation of a calendar for the drawing of lots, which should be organized in the court/institution where the assessee exercises the duty. **It is mandatory for the IQC (according to the number of members that the IQC will appoint), a member of the High Judicial Council and the Chancellor of the Court/Secretary General of the institution to participate.** It is not necessary to attend, according to the will, the assessee himself/herself or 1 person authorized by him/her, and 1 official from the High Judicial Council. For this purpose, it is necessary to inform the assessee of the date, time and place of the draw. The notification of the assessee shall be delivered to the Chairperson of the Court where the subject exercises the function. Such notification will be conducted by the Interim Committee on Ethical and Professional Evaluation in the Framework of the Judges’ Transitional Re-evaluation Process.

The lottery draw calendar, in order to comply with the requirements of the law in terms of participation, is suggested to be drafted with the consent of both parties to the relevant Commissions appointed by the HJC on the one hand and the IQC on the other. In setting the calendar, it is also possible to set reasonable deadlines in relation to the work to be done in the office for drafting reports.

The preparation of the calendar for the drawing of lots should be guided by the need for the procedure to be effective in terms of volume, speed and quality. In this regard, 3 criteria are identified on which to draft the lottery draw calendar.

It is suggested that the first criterion for drafting the calendar should be the time sequence for the re-evaluation of the assessees. Based on this criterion, the calendar shall be drafted in 3 phases:

- i. the first phase should include draw procedures for the priority list of assessees. According to a preliminary calculation carried out by the WG, there are 35 subjects.
- ii. the second phase to include lottery procedures for the mandatory list of assessees who have been required to submit documentation within one month, pursuant to Article 41 point 1 of the Law on Re-evaluation;

- iii. the third phase to include lottery procedures for the voluntary request list of assessesees who have been required to submit the documentation within 3 months, pursuant to Article 41, paragraph 2 of the Law on Re-evaluation.

The second criterion to ensure effectiveness in the process is suggested to be **the location of the archive**, from which the court files for evaluation will be retrieved. In this respect, it is reasonable for the assessesees to be subdivided according to the location of the institutions where they have been in office for the 3 years that are within the evaluation period. Such a division should first consider the city and then the fact whether in a group of subjects it is the same institution or different institutions involved.

The third criterion relates to **human resource issues**. Pursuant to this criterion, while analysing the human resources situation at the HJC, it should be taken into consideration that no more than 5 lots can be held at the same time, as there are 5 members appointed by the HJC to perform this task.

The fourth criterion relates to the **nature of the lottery procedure**, which requires a prompt identification of the issues through their extraction from the archive. This type of identification is necessary to verify whether the issue selected by lot meets the criteria of Article 91 of the Law on Status ^[1]. For this reason, it is thought that a draw procedure lasts for a time interval of 2-3 hours. This is an average estimate of the process, as unpredictable hurdles can occur at this moment (lack of acts in the archive), which may further hinder this process. This implies that a total of 18 lottery procedures (2 x 9) may be conducted in one working day, on the assumption that one group of lottery participants holds 2 lots in the same institution/city. It should be noted that this calculation was made theoretically due to lack of experience in this regard. Consequently, it is suggested that **the first step of the lottery calendar for the 35 priority entities will constitute a pilot project of this plan**, with the aim of analysing the situation and building a solid and realistic future calendar for the other reassesses.

- **LOT RULES**

This document provides an analytical description of the lottery procedures to be applied to first instance, appeal, High Court and Constitutional Court judges and their assistants/legal advisors. For the HCJ inspectors and chief inspector, the rules are detailed in decision no. 36/2015 of the HCJ, which pursuant to Article 42, paragraph 3 of the Law on Re-evaluation, are applicable.

Article 171 paragraph 4 of the Law on Status requires that the procedure of random selection of cases be conducted in accordance with the rules of Article 91 of this Law. Analysing the content of these norms, and based on the discussions held at the roundtables of September 29, 2017 and October 05, 2017, **the lot process should consist of the selection of only 5 court files**, complying as far as possible with the requirements of Article 91 of the Law on Status, so that the selected files are as representative as possible of the professional work of the assessee.

These 5 files to be selected must belong to the evaluation period set by the IQC. The evaluation period specified by the IQC is as set forth in Article 41 paragraph 3 of the Law on Re-evaluation “the last 3 years of the exercise of duty from the date of entry into force of this law”. Taking into consideration that Law no. 84/2016 “On the transitional re-evaluation of judges and prosecutors in the Republic of Albania” is published in the Official Journal no. 180, dated 23 September 2016, it is then concluded that **the evaluation period includes the interval “8 October 2013 - 8 October 2016”**.

- **GENERAL CRITERIA FOR THE SELECTION OF CASES**

These criteria have been elaborated from the analysis of Article 91 of the Law on Status, insofar as they may be applied in the transitional re-evaluation process under Article 43, paragraph 1 of the Law on Re-evaluation.

1. **Table Format**

To simplify the process and save time, it is proposed to create a spreadsheet with a list of cases to be lotted. After consultation with the Chairpersons of the Courts, it is proposed that this format, in its simplest form, lists all cases completed by the Judge in two columns: (1) the serial number facilitating the draw; and (2) the case registry number that the judge has adjudicated. The standard format of the table is found in Annex 2 to this Document. It is also necessary for each court to prepare for each judge statistics on the total number of cases tried in the re-evaluation period, categorizing them by type of case. These tables should be specific to specific types of courts. Template formats of these statistics, according to the courts, are found in Annex 2.

In order to check whether the selected lottery case meets the lottery criteria of Article 91 of the Law on Status, it will be proceeded on the spot with the physical verification of the court decision that has resolved the case. If the case does not meet the criteria, it is not considered, and it is further proceeded with the selection of another case.

If one assessee has exercised its function in more than 1 institution/court during the re-evaluation period (where the period in each institution/court is longer than 6 months), then it is proposed that the lot be held in the Court where the subject has exercised longer its activity. This lot will be held with the full list of judge’s cases, which will contain all the cases that the judge has completed in both courts. In the meantime, the second institution/court will offer its assistance by sending to the lottery team, in real time, a copy of the judge’s decisions given in this second court, if such decisions are selected by lot. They will be promptly faxed or emailed, documenting them in the minutes of the lot. Such assistance is necessary to verify that the cases selected meet the lot criteria.

In the meetings with the IQC the case of judges who have acted in more than one court has been discussed and an idea has been put forward for the organization of two lots. However, after careful evaluation, it is

very difficult to perceive the organization of two lots due to the low number of files to be selected in relation to the number of case criteria.

2.Number of cases

The number of cases to be selected is only 5 court cases. In this case, the question is about cases that must have been resolved by a decision in the period of evaluation by the judge being reassessed. It should be emphasized once again that regardless of how the statistical data were completed by the assessee on his/her own in the Self-declaration Form^[2], 5 files should be selected from the transitional re-evaluation period, defined by the IQC as “8 October 2013 – 8 October 2016” . The number 5 of the files selected for the re-evaluation process is a fixed number, which does not change, despite the rules of Article 91 of the Law on Status, which provides for a variable number of 15-21 for routine professional assessment.

3.Annual criterion

For the 5 files to be selected for the re-evaluation process, this criterion implies that the three-year period “October 2013-October 2016” is divided into three intervals “October 2013 - October 2014”, “October 2014 - October 2015” and “October 2015-October 2016” . For each time interval, the number of cases should not be higher than 2. This implies that the following applies one by one for the cases: once the 2 cases of one year are reached, the other cases of that year shall not be considered; when the 2 cases of the following year are reached, the other cases of that year shall not be considered. Consequently, the lot will select “2 cases of a year; 2 cases of another year and 1 case of another year”.

4.Procrastination criterion

For the 5 files to be selected for the re-evaluation process, it is considered that no such categorization is necessary but random selection should be applied. In drawing such conclusion, it has been taken into consideration that from the statistical data processed so far, it is impossible to identify such data. If the chairpersons of the court start to request such data, the release of the latter shall delay beyond any expectation the procedure and deadlines set by the Law on Re-evaluation. The process of completing these data is time consuming, as electronic court systems do not automatically generate such data^[3].

5.Time of function’s exercise

According to Article 91 of the Law on Status, if the subject has not been at work for more than 6 months, then the number of cases selected (respectively number 15 and number up to 6) will be proportionally reduced depending on the time of absence. However, with regard to the 5 files selected for the re-evaluation process, it is proposed that the number remains again at 5, despite the reduced time the subject may have had in exercising the function, unless the subject has exercised no working day.

6. Nature of the case

According to Article 91 of the Law on Status, court cases must be selected by chamber or section, where the judge has exercised his or her duties for the three years of evaluation, and depending on the number of cases for each category, it is equally determined the number of cases for each category. In the case of administrative court judges, no problems arise because the cases are of the same nature for the application of this rule. In the case of courts organized into chambers and sections, the table format should be appropriate to the internal judicial organization in the 3 years of evaluation. Preliminary data indicate that a division of the tables for general civil cases, family civil cases, commercial civil cases and criminal cases is needed. It is also suggested that the same information be sought from courts that have not been organized, as a preliminary analysis of the documentation reveals that judges in the Self-Declaration Form have stated in such courts that they have adjudicated civil, family and criminal cases (without giving exact numbers but with narrative description of the type of specialization of their work). After meetings and discussions on the nature of the cases, it is suggested that no additional lot filters (such as the exclusion of misdemeanours, standard civil cases such as marriage dissolutions or summary judgments) should be added, as there are no genuine studies on the type of individual workload of judges, the level of individual judicial micromanagement of these types of cases, and the degree of performance of a judge on these types of cases. Likewise, in the case of serious crime judges, a division should be made between criminal cases on criminal grounds and civil cases in application of anti-mafia law, to identify the ratio of cases to be selected among them. Consequently, even the chairpersons of the serious crime courts should require individualized statistical data in this perspective. In the meeting with the chairpersons of the courts, there may be presented data on the number of cases that have been tried by judges, divided by nature. For this purpose, they shall be formally notified of the submission of such data in any case not later than 2 days before the date of the drawing of lots. This rule on the nature of the case established by Article 91 of the Law on Status for routine evaluation should also apply to the selection of 5 court cases for the re-evaluation process.

7. Cases adjudicated upon delegation

According to Article 91 of the Law on Status, the lottery for the selection of 21 files for general evaluation should also include all cases for which the judge has been a rapporteur in a case for which he/she has been temporarily transferred to another court - that is, cases where he/she has been delegated over the 3 years of evaluation. In the re-evaluation process, it is suggested that this rule should not be used. In drawing this conclusion about not using data on delegated cases, it is taken into consideration that the processing of this data is time consuming and damages the re-evaluation process in terms of deadlines. On the other hand, it has been taken into consideration that the number of cases where a judge is delegated to adjudicate 1 case as presiding on behalf of another court does not hold a qualitative weight in the overall job statistics.

The working group also discussed the specifics of the Court of Appeal for Serious Crimes: on the one hand, the volume of cases for each individual judge, as a rapporteur, is not high and on the other hand, the judges of this Court have had a high number of delegations from the HCJ on behalf of other Courts of Appeal. In order to clarify this situation, official information was withdrawn from the Chairperson of the Court of Serious Crimes Appeal on the precise data on the volume of work of each judge at the Serious Crimes Appeal in relation to the number of cases where the same judge has been delegated as a presiding judge on behalf of the other Courts of Appeal for the period 08.10.2013 - 08.10.2016. According to this information, the number of cases with delegation as presiding judge for each judge ranged from 0 to 4 cases for the whole re-evaluation period, accounting for up to 6% of the volume of cases adjudicated by each judge on behalf of the Court of Appeal for Serious Crimes (the volume of these cases per judge ranged from 86 to 124. Consequently, it is considered that it is not necessary, for this Court, to include cases adjudicated upon delegation in the lot.

8.Nature of decision

Pursuant to Article 43, points 1 and 2 of the Law on Re-evaluation, 5 judicial files should be selected according to an objective and random system, where the procedure is conducted in accordance with the Law on Status, insofar as the provisions of this Law are applicable. According to Article 91 of the Law on Status, during the drawing of lots for the selection of 21 court files for general evaluation, measures must be taken that the number of cases (of any civil, administrative or criminal nature), which are settled by a non-final decision (such as decisions of dismissal, declaration of incompetence, lack of jurisdiction, decision of refusal, return of acts, decisions of non-acceptance without resolving the basis of the dispute) shall not exceed 10% of the total number of the cases selected - thus these types of cases should not be more than 2. For this purpose, it is necessary that during the drawing of lots, to proceed with the physical verification of the decision pertaining to this case. When it is verified that number 2 of such cases is exceeded, if the lot selects such a case again, it shall be excluded from the lot and the lottery shall continue for another case. For the selection of 5 court files for the re-evaluation process, it is suggested that such cases be no more than 1 court file.

9.Complexity of the case

According to Article 91 of the Law on Status, while drawing lots for the 21 files for general evaluation, measures must be taken that the number of court cases without any opposing parties (of any civil, administrative or criminal nature), should not be higher than 20% of the total number of cases selected - that is, these types of cases should not be more than 4. The definition of such cases is provided by letter a) of Article 2 of the Law on Status, which includes “cases brought before the court in the form of a petition that does not require the settlement of a dispute, including civil and administrative cases without opposing parties, administrative-criminal cases and security measures”. For this purpose, it is necessary to proceed with the physical verification of the decision pertaining to this case when drawing the lot.

When it is verified that number 4 of such cases is exceeded, if the lot is selected again, it shall be excluded from the lot and the lottery shall continue for another case. For the selection of 5 court files for the re-evaluation process it is suggested that if the lot gives such cases, only 1 should be accepted and the others should be excluded.

10. Nature of the court

The working typology is different for different courts and consequently, for the process of selecting by lot 5 files for re-evaluation, the rules must be differentiated. A proposal on them is given in Annex 1 to this document.

- **DOCUMENTATION OF LOTS AND OBSERVATION OF FILES**

i. Documentation of lots

The last step is to take care of documenting the actions performed during the draw, through minutes that accurately/faithfully reflects each step. It is suggested that such minutes be maintained by an experienced judicial secretary, a standard format should be prepared, which will also contain the section “the minutes is read aloud, understood by the attendees and accepted to reflect faithfully the actions taken. After the content is found to be regular and the attendees have no objection, the minutes is signed by the person who held it [the judicial secretary], the HJC member [name and surname], the responsible employee/inspector and the IQC Commissioner [name and surname]”. If there are any objections to the drawing procedure, they shall be noted in a separate act, which shall be attached to the minutes.

ii. Provision of copies for the 5 files

After the lot has been documented, the HJC administration immediately prepares a letter, which shall be addressed to the Chairperson of the Court, in whose archive the 5 selected files are found and it is requested the submission of their copies to the HJC immediately and in any case no later than 2 working days. The copies of files must be photocopied accurately, under the responsibility of the court’s chairperson, accompanied by an inventory and sealed with a court seal.

ANNEX 3

REPUBLIC OF ALBANIA

HIGH JUDICIAL COUNCIL

Prot. No. _____

Tirana on __/__/2019

REPORT ON THE ANALYSIS OF PROFESSIONAL SKILLS

OF THE ASSESSEE

[NAME AND SURNAME]

For the period [years of evaluation]

DATA ABOUT THE ASSESSEE

First Name:

Father's Name:

Surname:

Sex:

Date of birth:

Place of birth:

Country of birth:

Citizenship:

Unique personal number:

Email address:

Telephone number:

Court:



Function:

This report has been prepared by the High Judicial Council as an auxiliary body for professional evaluation, which is carried out by re-evaluation institutions in the transitional re-evaluation process of assessees based on Law no. 84/2016 “On the transitional re-evaluation of judges and prosecutors in the Republic of Albania” and Law no. 96/2016 “On the status of judges and prosecutors in the Republic of Albania.

The re-evaluation employee/inspector [name and surname] assigned to the description and analysis of the professional evaluation documents of [the function and name of the assessee] has drafted this detailed and reasoned report. The report has been checked for accuracy and standardization by the rapporteur (HJC member). This report has analysed the data resulting from the documents, referring to the following evaluation criteria:

- a. Professional skills;
- b. Organizational skills;
- c. Ethics and commitment to professional values; and

- ç) Personal skills and professional commitment.

This report is based on the description and analysis of:

- 1. Self-declaration form, 3 legal documents selected by the assessee himself/herself, and other data and documents that accompany the self-declaration form and which were submitted by the assessee himself/herself;
- 2. 5 court files [legal documents in the case of non-judges] selected under an objective and random system;
- 3. Records from the HJC archive sources.

1. FINDINGS FROM THE SELF-DECLARATION FORM AND DOCUMENTS SUBMITTED BY THE ASSESSEE

The assessee [function, name and surname], on [date/month/year], has submitted to the former High Council of Justice the following acts:

- 1. Self-declaration form, total [number, where two pages are counted as 1 sheet] sheets;
- 2. [The responsible employee/inspector writes the number of documents as presented in the inventory list of receipt of acts by the administration of the former HCJ] accompanying documents of the Self-declaration Form, total [number, where 2 pages are counted as 1 sheet] sheet. The inventory list of the acts is part of the re-evaluation file.

From the analysis of the documentation presented by the assessee himself/herself, the following is ascertained:

- a. Accuracy of the Self-declaration Form

[to be filled by text].

- a. Professional experience in the last 10 years

[to be filled by text]

- a. Other duties performed in the last 3 years and statistical data

[to be filled by text]

- a. Trainings in the last 3 years

[to be filled by text]

- a. Three legal documents submitted by the assessee

[to be filled by text]

- a. Other documents submitted by the assessee

[to be filled by text]

2. DESCRIPTION OF 5 COURT FILES [LEGAL DOCUMENTS FOR NON-JUDGES] SELECTED BY LOT

On [date/month/year] at [the institution where the lottery was organized], 5 files were selected by lot in the presence of [names and functions of the participants]. The minutes documenting the draw of lots is Annex 1, part of this Report. Their observation was carried out from [date/month/year] to [date/month/year], as soon as they were made available by the administration of the relevant institution. Copies of these 5 files in [paper or electronic] format are included in the file of the assessee [name and function]. The findings from the observation of these 5 files are described below.

1. Case [nature of the case], no. [register], date [registration] belonging to [full parties], with subject [subject or charge], completed by decision no. [number], date [date/month/year]

This case was registered with the court on [date/month/year]. In the lot dated [date/month/year], it was assigned to the assessee [name and function]. On [date/month/year], the assessee, by act [order/decision/note], determined the session [type of session] on [date/month/year], at [00.00].

[to be filled by text].

3. DATA FROM ARCHIVE RESOURCES OF THE HJC

The analysis of the data in the personal file of the judge shows that the judge [name and surname] was appointed a judge before the Court [type of Court] by decree no. 6104, dated 25.03.2009 of the President of the Republic. The following [responsible employee/inspector] describes the performance of a judge in terms of transfer or promotion, setting the number and date of the act of the former HCJ or the President of the Republic. The responsible employee/inspector also describes other data resulting from the personal file of the judge related to the evaluation criteria. The responsible employee/inspector identifies the counterstatements and takes care not to overlap with the information in Part I, Section b) for professional experience in the last 10 years].

According to the data in the register of appeals and disciplinary proceedings it is established that during the three-year evaluation period, [number] complaints were filed for the Judge [name and surname] in the former HCJ Inspectorate (the responsible employee/inspector accurately records the number of complaints by years)]. [Number] complaints have been archived on the grounds that the claims are settled in court, that the claims are not proven or that the appeal is repeated; [number] complaints are verified and [the responsible employee/inspector records the verification results, violations or irregularities found in summary, and the eventual measures taken, i.e. if the case had been forwarded to the Minister of Justice for the disciplinary proceeding of the judge and performance of disciplinary proceedings. The responsible employee/inspector is careful to record the data on the disciplinary measure, even if it has been ceased].

4. ANALYSIS OF FINDINGS

1. Professional skills

a. Legal knowledge

[The responsible employee/inspector describes the skills of the assessee in interpreting and enforcing law, identifying conflict of norms, applying general principles of law theory, and analysing jurisprudence according to findings on both groups of analysed documents].

a. Legal reasoning

[The responsible employee/inspector describes the skills of the assessee to write clear, understandable, well-structured, well-structured legal documents, and the quality of analysis and logical reasoning. In order to identify the quality of logical reasoning, the responsible employee also describes the link between the facts of the dispute and the conclusions reached by the judge. The responsible employee/inspector evidences this skill taking into consideration the fact that legal reasoning is one of the aspects of due legal process. This description is based on the findings on both sets of analysed documents].

2. Organizational skills

a. Skills to cope with the workload

[The responsible employee/inspector describes the skills of the assessee to comply with legal terms, meeting time standards, the average time identified by document analysis, and the average time to make a final decision. To the extent possible, the clearance rate to be described as well. The responsible employee describes whether the judge is efficient and effective, also taking into consideration the fact that time is one of the aspects of the due legal process].

a. Skills to conduct court proceedings

[The responsible employee/inspector describes the skills of the judge assessee, based on the average number of court hearings on each case, performing the necessary procedural actions to organize the hearing, avoiding unproductive court hearings, including oversight and delivery without delay of the necessary acts of notification.]

a. Skills to manage files

[The responsible employee/inspector describes the skills of the assessee, identifying whether the 5 files observed were regular, complete, and whether the acts contained therein were correct].

3. Ethics and commitment to professional values

a. Ethics at work

[The responsible employee/inspector describes whether the collected materials have revealed data regarding the commitment and responsibility of the subject in function].

a. Integrity

[The responsible employee/inspector describes whether the collected materials have revealed data regarding the immunity of the subject towards and external influence or pressure].

a. Impartiality

[The responsible employee/inspector describes whether the collected materials have revealed data regarding the diligence of the subject towards the conflict of interest, especially if the observation has resulted in requests for his exclusion from the procedure and the manner in which it has been proceeded for them. In addition, the responsible employee/inspector describes whether the collected material has revealed data regarding respect for the needs of vulnerable groups, including issues of gender equality and minorities, whether discriminatory language has been used and any other elements related to impartiality. The responsible employee/inspector describes whether the subject has demonstrated qualities for a fair trial and has respected the rights of the parties and the victims]

4. Personal skills and professional commitment [to be completed]

a. Communication skills

[The responsible employee/inspector describes the communication skills of the subject, duke summarizing the results obtained from the observation of the subject's files].

a. Co-operative skills

[The responsible employee/inspector describes whether the collected materials have revealed data regarding the co-operative skills of the subject to cooperate with colleagues and judicial administration, and whether the subject has shared professional knowledge or experience with them].

a. Willingness to engage

[The responsible employee/inspector describes the skills of the subject to engage in the ongoing training of the School of Magistrates and to participate in other professional trainings. In the case of first and second instance judges, for whom continuous training in the School of Magistrates was mandatory by law, state whether the subject has met the minimum standard of participation in continuous training of 24 days to 3 years, according to Article 76, point 5 of the Law on Status. In addition, the responsible employee/inspector describes the availability of the subject to support the students of the School of Magistrates, the subject's ability to participate in inter-institutional activities for the improvement of the justice system and public relations activities, and the subject's engagement in academic law publications. This description is based on the documentation submitted by the assessee along with the Self-declaration Form].

Drafted by the responsible employee/inspector [name, surname, signature] on [date/month/year]

Approved by the rapporteur (HJC member) [signature], on [date/month/year]

^[1] See the explanation of these criteria in the section “General Criteria for the selection of cases” and those listed in the Annex.

^[2] As discussed in the meetings and roundtables held, **the quality of statistics presented by the assesses themselves along with the Self-Evaluation Form is different and should not prejudice the rating of the subjects**, as the law has been read differently due to the combination of some legal texts. From a preliminary analysis and verification of data for 40 court and institution directors, it is found that Article 41 paragraph 3 of the Re-evaluation Law is read in two ways: 30 court and institution directors have understood this period as the full calendar years 2014, 2015 and 2016. While 10 others have understood the interval “October 2013-October 2016”. In this situation, it was accepted that the standard for the transitional re-evaluation period, adopted by the IQC, will apply only to the selection of files by lot, and to the analysis of data from archival sources of the HJC (appeals/complaints and disciplinary measures).

^[3] Notwithstanding the above, it should be noted that the chairpersons of the courts have expressed their readiness for the completion of such data. On the other hand, trial time is an important element of professional performance, related to the international standard of due legal process, within a reasonable time. In this respect, if the IQC deems it relevant, the chairpersons of the courts may be required to prepare individual data for each judge at the time of the adjudication of cases and to forward such information to the IQC, at the latter’s request. The draw for the selection of 5 files should continue without this criterion in order to eliminate process delays.