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Consolidation of the
Justice System in Albania

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HIGH JUDICIAL COUNCIL

REGULATION

ON THE ORGANISATION AND FUNCTIONING OF THE TEMPORARY COMMISSION FOR REVIEW OF APPEALS AGAINST THE DECISIONS OF THE CHIEF INSPECTOR OF THE FORMER HIGH COUNCIL OF JUSTICE FOR FILING A COMPLAINT OR TERMINATING AN INVESTIGATION AGAINST A JUDGE

This regulation is based on the Articles 62, 63, 63, 72, 73, 74, 75 of the Law no 115/2016 “On justice system governance bodies”, on Articles 117, 118, 119, 120, 121, 122, 123 of the Law no 96/2016 ‘On the status of judges and prosecutors in the Republic of Albania’ the Decision no 31, dated 14.02.2019, - ‘On the establishment of the temporary commission for the review of appeals against the decisions of the chief inspector of the former High Council of Justice for filing a complaint or terminating an investigation against a judge’.

Article 1

Scope

The purpose of this regulation is the determination of rules on the organization and functioning of the temporary commission for review of appeals against the Decisions of the Chief Inspector of the former High Council of Justice for filing a complaint or terminating an investigation against a judge.

Article 2

General Principles

1. The main principles in reliance whereon the activity of the commission is being conducted are: legality, transparency, professionalism, accountability, independence, impartiality, non-discrimination, confidentiality and protection of data.

Article 3

Field of activity of the commission

1. The commission shall examine the entire complaints against the decision of the chief inspector of the HCJ, regarding the archiving of the complaint, termination of the investigation and completion of the investigation against the judicial activity of the magistrate, having been lodged with the institution, such being provided for in the decision no 31, dated 14.02.2019, of the Council.
2. The examination of the complaints by the commission shall occur successively taking account of the date of their registration in the protocol register.

Article 4

Organisation and functioning of the council

1. The Commission shall be composed of three members and one alternate member having been selected upon lots by the Council. The Commission shall elect the chairperson in its first meeting.
2. The complaints having been deposited in the protocol of the Council shall be assigned upon lots, among the members, which shall appoint the members to be the rapporteur of the respective file. The assignment shall occur at the presence of all members.
3. The assignment of complaints shall occur upon lots, under the detailed rules having been determined in the Decision no 31, dated 14.02.2019, - 'On the establishment of the temporary commission for the review of appeals against the decisions of the chief inspector of the former High Council of Justice for filing a complaint or terminating an investigation against a judge'.
4. The commission shall, in its activity, be assisted by the administrative staff.
5. The rapporteur member shall prepare the information report pertaining to the complaint and distribute it to the other members of the Commission along with the respective proposal.

Article 5

Conflict of interest

1. The commission member being present in the meeting of the Commission, who is aware of a conflict of interest or a legal obstacle for himself or for another member, in connection with an issue on the agenda, in compliance with Article 72, 73, 74 and 75 of the Law no 115/2019 "On justice system governance bodies", shall be obliged as follows:
 - a. Declaring the nature of the interest or hindrance;
 - b. Not to be involved in the discussion of the respective case;
 - c. Not to be involved in the voting on the respective case.

2. Where one of the commission members withdraws from attending the meeting of the commission due to the conflict of interest, the meeting of the commissions shall be attended by the alternate member. The member of this commission shall, in each single instance, be replaced by another judge member and a non-judge member shall be replaced by another non-judge member.

Article 6

Chairman of the commission

The Chairman of the commission shall perform the following tasks:

- a. Taking the necessary measures for ensuring the effective functioning of the Commission;
- b. Convening the meetings of the Commission;
- c. Coordinating and supervising the activity of the Commission;
- d. Guaranteeing the assignment of the complaints by lots for each member, including himself;
- e. Informing the Council in connection with the dynamics of the activity of the Council;
- f. Preparing and submitting the final report to the Council, upon the completion of the examination of the entire complaints under the remit of this Commission.

Article 7

Meetings of the commission

1. The Commission shall meet as often as necessary by the Chairperson, setting out the agenda, its date and time, and the venue of its organization. Convening the meeting may also be requested by a member of the Commission. When the two other members request convening the meeting, the Chairperson shall be obliged to convene it.
2. The meeting shall be valid when all 3 members of the Commission attend it.

Article 8

Examination of the complaint in the commission

1. The Commission shall, after the submission of the report of the rapporteur on the complaint, shall verify that the filing of the complaint by the Chief inspector has been done in accordance with Article 120 of Law 96/2016 “On the Status of Judges and Prosecutors in the Republic of Albania” which establishes the criteria for admissibility of the complaint: a. It is submitted in writing and contains the following particulars:

- a. the personal data and address of the complainant, as well as whether the complainant seeks confidentiality of his identity; a description of the circumstances of the fact alleged to have taken place;
 - b. the name and surname of the magistrate, court or prosecution office in which the magistrate exercised his office at the time the alleged violation occurred;
 - c. refers to facts that occurred within the statutory limitation period for a disciplinary investigation;
 - d. does not contain abusive elements, is not manifestly ill-founded or repeated by the same complainant;
 - e. is lodged with regard to the conduct of the magistrate, who was on duty at the time the alleged violation occurred;
 - f. is lodged in connection with the conduct of the magistrate, foreseen as a disciplinary violation by the applicable law at the time the alleged violation occurred;
 - g. is lodged in connection with the conduct of the magistrate which, if proven to be committed, constitutes a disciplinary offense provided for by law.
2. If the appeal against the decision of the Chief Inspector of the former High Council of Justice filing an appeal and closing an investigation against the judicial activity of the magistrate is lodged beyond the legal time limit provided for in Article 121, paragraph 3 and Article 122, paragraph 5, of the Law 115 / 2016, the Commission decides to reject the appeal on this ground.
 3. The Commission has the right to request any documentation deemed necessary and auxiliary to its operation under the law.
 4. The Chairperson of the Commission is responsible for ensuring that the administration takes all necessary measures to ensure that any meeting of the Commission is appropriately documented through the minutes with a summary of the discussions and if possible through the audio system. The record must contain the signature of the compiler and committee members at the bottom of each page.
 5. The minutes of the Commission meetings shall be deposited into the archive and will be part of the Commission's file of acts.

Article 9

Meetings of the commission

1. The decision is signed by all commission members, as agreed.
2. The commission decision is final and cannot be appealed before the plenary meeting of the Council.
3. The Committee shall, by a majority vote of the members present, approve it. The Chairman of the Commission votes last.

4. In the event that the Interim Commission admits the appeal, thereby overturning the decision rendered by the Chief Inspector of the former High Council of Justice, the parties shall be notified thereof and the case is registered in a special register set up for this purpose, pending for further investigation to the High Justice Inspector, as soon as he is established as an institution.
5. The decision of the Commission is drafted by the rapporteur member responsible for the complaint, and is transcribed in 4 counterparts.

Article 10

Communication

The Commission shall, after examining the complaint, upon the conclusion of the proceedings, decide thereon, and shall notify thereof the complainant, the magistrate and the High Judicial Council.

Article 11

Duration of the activity of the commission

The duration of the commission's activity should be until all files regarding appeals against the decision of the Chief Inspector of the former High Council of Justice have been reviewed.

This Regulation shall enter into force immediately and be published on the Council's official website.