

HIGH COUNCIL OF JUSTICE, DECISION **KËSHILLI I LARTË I DREJTËSISË, VENDIM**

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Unofficial translation of the Decision on the managerial functions at courts

Date of compilation 01/06/2015, done by Koco Bendo

DECISION

No 227/2, dated 28.03.2008

ON **MANAGERIAL FUNCTION AT COURTS¹**

In reliance on Article 1 and Article 2, letter 'e' of the Law no 8811, dated 17/05/2001 "On the organisation and functioning of the High Council of Justice", as amended,

HIGH COUNCIL OF JUSTICE

DECIDED:

Article 1 – Managerial Function

1.1 The managerial function at the first instance and appeal courts is that of the Chairman, whose appointment is made out of the judges through a competition process and meeting the legal criteria, based on an evaluation of professional skills, ethics, organisational and managerial skills, while it consists of an important element in the career.

¹ Amended upon Decision no 116, dated 12/09/2014 "On some addenda and amendments to the Decision no 227/2, dated 28/03/2008 "On the managerial function at Courts" of the High Council of Justice".

Article 2 – Management of courts

2.1 Every court is presided over by the chairman.

2.2 The powers of the first instance and appeal court chairmen for the respective management and leadership concerning the organisation, functioning and administrative activity of the court and judges have been provided for in Article 18 of the Law no 9877, dated 18/02/2008, ‘On the organisation and functioning of the judicial power’, while he carries out other tasks to the effect of the administrative management of the court provided for in bylaw acts and in the acts of the High Council of Justice.

2.3 In the event of his absence, the court chairman shall authorise a judge to assume a number of his managerial powers (provided for in point 3 of Article 18 of the Law no 9877, dated 18/02/2008 “On the organisation and functioning of the judicial power”) where he carries out his activity.

2.4 Where the management period by an authorised judge is longer than 10 days, the court chairman shall inform the High Council of Justice on the judge to whom the powers have been delegated.

Article 3 – Appointment criteria of the court chairman

3.1 The appointment criteria for the court chairman are those provided for in Article 16, point 2, of the Law no 9877, dated 18/02/2008 “On the organisation and functioning of the judicial power, and specifically:

- a. having worked for not less than four years as a judge at the courts of the same or higher levels;
- b. being evaluated ‘very good’ by the High Council of Justice in the two recent times;
- c. not being subject to any effective disciplinary measure;
- ç) having organisational and managerial skills;
- d. not being a member of the High Council of Justice.

3.2 Among the candidates competing for court chairman and none of them meeting the evaluation criterion provided for in letter ‘b’, there shall, for the purposes of this criterion, be taken account of the candidate with the highest results in the two recent ties of evaluation.

Article 4 Appointment and stay in office

4.1 The judge shall be appointed to the office of the first instance and appeal court chairman through a competition procedure for a legal mandate of a duration of four years, with the right to re-appointment. An exception shall consist the situation of temporary appointment – delegation – due to the emergent situations of re-organisations.

4.2 The mandate of the first instance and appeal court chairman shall end prior to the four-year deadline in the events provided for in points 2 and 3 of the Law no 9877, dated 18/02/2008 “On the organisation and functioning of the judicial power”, and specifically:

- a. when he resigns;
- b. in all cases of removal of the office of a judge;
- c. upon being physically impeded to assume the office for more than 3 months;

ç. Upon being elected member of the High Council of Justice.

d. upon being dismissed from the managerial position, in the event of failure to fulfil the tasks provided for in Article 18 of Law no 9877, dated 18/02/2008 “On the organisation and functioning of the judicial power” taking account of the outcome of the control of the court where the managerial position is being assumed, or of the performance evaluations of the court chairman, provided for in Article 9 of this Decision.

4.3 The end of the mandate of the court chairman is declared upon the decision of the high council of Justice, following the grounded request of any member of this Council, in accordance with point no 5, of the Law no 9877, dated 18/02/2008 “On the organisation and functioning of the judicial power.

4.4 The dismissal of the first instance and appeal court chairman shall be done upon the decision of the High Council of Justice, when requested in writing by not less than 5 members of the High Council of Justice, by the Deputy Chairman of the High Council of Justice or by the Minister of Justice.

Article 5 – Appointment procedure for the court chairman

5.1 The appointment of the court chairman occurs through the competition procedure between at least two candidates for the managerial position of the court.

5.2 In the selection process among the competing candidates, the High Council of Justice applies the procedure of presentation and interviewing each of the candidates making available to them reasonable and equal time. The competing judge shall make a presentation before the High Council of Justice, in a summarised format, of his program concerning the management of the court and subsequently he shall take questions from the Council members.

5.3 The meeting of the High Council of Justice for hearing the judges competing among them for the same position may occur at the presence of an auditorium with representatives from the local power authorities at the court where the competing judge carries out his activity, other judges of this court, representatives of the lawyers community of the zone and media.

5.4 The High Council of Justice shall decide on the selection of the most appropriate candidacy for court chairman through the grounded and open voting of each member and with the majority of votes. Where the votes end up at a draw between two or more candidates. The selection shall occur taking account of the candidate with the highest evaluation results.

5.5 The decision of the High Council of Justice appointing the court chairman shall be grounded.

Article 6 – Data and materials serving for the selection to the managerial function

6.1 For judges competing for the position of the court chairman, data and materials shall be identified and collected with regard to their activity and they shall be submitted to the High Council of Justice in the course of the competition.

6.2 The data and materials being identified and collected for the judges being candidates for the managerial function at courts shall contain information pertaining to:

- a. workload accomplished over the years, as well as their work quality;
- b. participation at trials as members of the judicial panel (not as reporters);
- c. the eventual conduct and cases of compliance or conflict of interest;
- ç) complaints addressed against them and the way of concluding the processing of complaints, highlighting in each case the appropriate fulfilment of the task of the judge, whether the initiation of the disciplinary proceedings has been requested, whether a disciplinary measure has been taken, time, extent and time of taking it, whether they have been warned (verbally or in writing), as well as whether valid data for their professional and ethical evaluation have been identified.
- d. professional evaluations made for them in the two recent times by the Inspectorate of the High Council of Justice. If the one competing is an officiating chairman, the evaluation report of the Chief-inspector on his performance as chairman, accomplished under Article 9 of this Decision.²
- dh. Foreign language literacy;
- e. problems connected to the issue of declared assets by the judges being candidates or results of the controls assumed in connection with these declarations;
- ë. Reports of the general or topic-related controls exercised on them or at the courts where they have worked or are working, as well as the outcome of these controls compared to their activity of those judges;
- f. data being available by the Ministry of Justice;
- g. Opinions taken with regards to the activities of competing judges from the entities receiving judicial services before the respective courts, from the representatives of the prosecution office, local legal profession;
- gj. Any other data which may serve for the evaluation in the aspect of performance and merits of the candidate judges.

6.3 The identification and collection of data and materials for judges being candidates for court chairmen, shall be made by the inspectors of the Inspectorate of the High Council of Justice, tasked specifically by the Deputy Chairman of the Council.

Article 7 – Announcement of vacancies and submission of the request

7.1 To the effect of avoiding the creation of vacuum at the managerial position of the court, the vacancy for the position of the court chairman shall be announced as such three months prior to the expiry of the four-year mandate of the court chairman.

² Amended upon Decision no 116, dated 12/09/2014 “On some addenda and amendments to the Decision no 227/2, dated 28/03/2008 “On the managerial function at Courts” of the High Council of Justice”.

The three month period serves for identifying the candidacies competing for the position of the court chairman and for the collection of materials and data based on which the selection shall occur.

The appointment of the new chairman can not occur prior to the declaration of the full mandate of the current chairman and under no circumstances later than one month since the expiry of his mandate.

7.2 Where the position of the chairman of the court remains vacant due to one of the situations of ending the mandate ahead of the legal deadline, the High Council of Justice shall delegate one of the judges of this court to assume the office of the court chairman temporarily. The vacancy in this case shall be filled in within three months since its emergence.

7.3 The vacancy shall be made known to the judges, at least two weeks prior to the competition day, through the means of communication of the High Council of Justice and the notification shall be present continuously on the internet website of the High Council of Justice until it is occupied.

7.4 The judges shall submit with the High Council of Justice the request for appointment, the program for the management of the court, as well as any other document establishing their professional training or evaluation of personality, other than those contained in the personal file of the judge.

Along with the request and other documents, the judges competing for presiding over the court shall submit also an authorisation through which they consent to the representatives of the High Council of Justice investigating and collecting data and materials on their activity, referring to and to the extent provided for in Article 6.2 of this Decision.

Article 8 – Processing of data

8.1 When and each time while announcing the vacancy for the management position at the court, the High Council of Justice shall set up a work group consisting of the members of the council, which shall, based on the collected data and materials, draft a report on the candidates competing for the position of the court chairman.

8.2 The work group shall be made available the entire data and materials being with the High Council of Justice, as well as other being collected in accordance with the provisions of this Decision.

8.3 The work group prepares a Curriculum Vitae and an account identifying the positive and negative elements of each of the competing candidates. These acts shall, along with the request of the judge and program for the court management, be distributed to the members of the High Council of Justice, according to the legal procedure for meetings of the Council.

8.4 The members of the High Council of Justice may, prior to or during the meeting making the appointment of the judge to the management function, seek to study the data and materials having been collected or the personal file of each of the competing judges.

Article 9 – Performance evaluation

9.1.1 The chief-inspector of the High Council of Justice shall, once in two years or upon being required by the High Council of Justice, submit to the Council a report on the work done by the court chairman. The High Council of Justice shall, in November each year, determine the calendar of chairmen due to be evaluated in the upcoming year and for the period of evaluation, setting as priority the chairman towards the end of their mandate, as well as those re-running for this office.³

9.1.2 The court chairmen assuming this office for more than 2 years shall be subject to the periodic evaluation.

9.2 The report of the chief-inspector shall build also on:

- a. the report of the representative of the High Council of Justice attending the meeting of annual analysis of the court, specifically for the chairman performance;
- b. visits of the members of the High Council of Justice to the courts in the course of the mandate of the chairman;
- c. materials coming from the Minister of Justice;
- ç. Other materials emerging from the verifications or controls during the period he has been in the position of the court chairman;
- d. other acts issued by the court chairman while assuming his own powers provided for in article 18, of law no 9877, dated 18/02/2008 "On the organisation of the judicial power of the Republic of Albania;
- dh. Acts issued by the court chairman for the administrative management of the court provided for in bylaw acts and acts of the HCJ;
- e. outcome of complaints submitted against them in the capacity of the chairman;
- ë. Statistical data on the functioning of the court compared to the previous years;
- f. annual report by the Court Chairman on the management and financial outcome at the court;
- g. information from the judicial Budget Administration Office;
- gj. Information from judges and judicial administration of the court;
- h. information from the Local chamber of Legal Profession and District Prosecutor.⁴

9.3 The judge in the function of the court chairman shall be communicated the report of the chief-inspector, where to he shall be entitled to express his objections. The above procedure shall be accomplished in written procedure.

9.4 The report of the chief-inspector shall be considered in the meeting of the High Council of Justice.

9.5 Where the High Council of Justice considers reasonable or where the judge at the position of the court chairman seeks it, the latter may attend the meeting to respond to

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⁴ Amended upon Decision no 116, dated 12/09/2014 "On some addenda and amendments to the Decision no 227/2, dated 28/03/2008 "On the managerial function at Courts" of the High Council of Justice".

different questions and to submit his own opinions concerning the report, his performance and eventually his future performance.

9.6 Based on the report of the chief-inspector, the entities being entitled to launch the initiative in writing for seeking the dismissal of the court chairman, being the deputy Chairman of the High Council of Justice, the Minister of Justice and not less than five members of this Council may seek the dismissal from the managerial position of the chairman. In such a case, the court chairman being subject to such proceedings shall be invited to the meeting and be provided the opportunity to be heard. Based on the discussions of the Members of the High Council of Justice, the Council shall decide on the stay of the judge in the position of the court chairman or for his dismissal from this managerial position. The proposing authority shall have the decision-making power.

Article 10 – Last provisions

10.1 The chief inspector and the respective departments of the High Council of Justice shall start with the procedures for implementing this Decision.

10.2 At the vacancies for court chairman created due to the expiry of the four-year mandate of the chairmen at the courts of the judicial districts and Appeal Courts, shall continue the current chairmen assuming this function until the selection of the most appropriate candidacy for court chairman by the High Council of Justice.

10.3 The decision no 214/2, dated 12/07/2007, of the High Council of Justice “On the managerial functions at courts, as amended”, shall be repealed.

This decision shall enter into effect immediately.

Tirana, today on 28.03.2008.

HIGH COUNCIL OF JUSTICE