

## **HIGH COUNCIL OF JUSTICE, REGULATION** **KËSHILLI I LARTË I DREJTËSISË, RREGULLORE**

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Unofficial translation of the procedures on the selection of the candidates for judges to the administrative courts of first instance and appeal

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

### **DECISION**

No 299/1, date 30.11.2012<sup>1</sup>

### **ON**

### **PROCEDURES OF SELECTION OF CANDIDATES FOR JUDGES TO THE ADMINISTRATIVE COURT OF FIRST INSTANCE AND APPEAL**

### **HIGH COUNCIL OF JUSTICE**

Pursuant to Article 5, paragraph 4, of Law no. 49/2012 "On the Organization and Functioning of the Administrative Courts and Administrative Disputes", as well as the Law no. 9877, dated 18.02.2008 "On the Organization of the Judicial Power in the Republic of Albania", in its meeting dated 11.30.2012,

### **DECIDED:**

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<sup>1</sup> As amended by Decision no. 305, dated 08.03.2013 "On setting out the dates for conducting the selective test for judges to the administrative court of first instance and in the administrative court of appeal"

## **CHAPTER I GENERAL RULES**

### **Article 1**

#### **The object**

This decision sets out detailed rules for the organization of the process of selection of candidates for judges to the Administrative Court of First Instance and Appeal.

### **Article 2**

#### **Principles**

The procedure of selection of the candidates to the Administrative Court of First Instance and Appeal is based on the principles of legality, transparency and meritocracy.

### **Article 3**

#### **Entities**

1. The High Council of Justice (HCJ) is the responsible body for the selection process of candidates to the Administrative Court of First Instance and Appeal.
2. The HJC cooperates with the School of Magistrates, Faculty of Law of University of Tirana and international institutions operating in the field of justice and strengthening the rule of law, for the selection of candidates for judges.

### **Article 4**

#### **Selection process**

The selection process of judges is organized in two phases:

1. Preparation and development of selection test;
2. Selection of candidates based on test results.

## **CHAPTER II PREPARATION AND DEVELOPMENT OF SELECTIVE TESTING**

### **Article 5**

#### **Submission of applications**

1. The interested candidate to be appointed as a judge of the administrative court of first instance and/or as a judge of the administrative appeal court submits his written request to the HCJ, within the specified time on the public announcement of vacancies.
2. Candidates Examination Commission shall, after examining all applications within 5 days, verify the fulfillment of the following legal requirements:
  - a) for candidates to the Administrative Court of First Instance:
    - i) being in the position of the judge, with an experience of not less than 5 years;
    - ii) having no disciplinary measure in effect.
  - b) For candidates to the Administrative Appeal Court:

- i) be in the position of the judge, with an experience of not less than 9 years;
  - ii) having no disciplinary measure in effect.
3. The Commission shall apply to the extent possible and to the extent not falling in conflict with this decision, decision rules no. 274/2 dated 02.16.2011 of the High Council of Justice "On the organization and functioning of the Candidates Examination Commission", as amended.
  4. The Candidates Examination Commission prepares a final list of the candidates for each court and orders to be publicly announced.
  5. Candidates who have applied and are disqualified by the Candidates Examination Commission may appeal within two days of the public announcement. The appeal will be examined by the High Council of Justice.
  6. The final list of candidates shall, as long as no complaints are filed, immediately after the expiry of the appeal deadline, or following the HCJ decision on the examination of appeals, be forwarded to the School of Magistrates by the Deputy Chairman of the HCJ.

## **Article 6**

### **Establishing the Pool of Questions Commission**

1. HJC shall, in each case where the selection process takes place, establish the Pool of Questions Commission for the selective test by a decision, which consists of three members:
  - a) one member of the High Council of Justice, also the president of the Commission;
  - b) one member elected by the School of Magistrates;
  - c) one member elected by the Faculty of Law at the University of Tirana.
2. Each member of the Commission shall complete and sign a statement that he is not in a situation of a conflict of interest, while assuming office. The statement will be drafted according to a standard model in Annex 1 and an integral part of this decision.
3. The School of Magistrates and the Faculty of Law at the University of Tirana send the name of the respective candidate to HCJ within 15 days of receiving notice from the HCJ. They include prominent experts with outspoken knowledge of constitutional, administrative, civil law civil procedure, financial, human rights and / or writing of legal reasoning.
4. The Pool of Questions Commission collaborates with the School of Magistrates and Faculty of Law at the University of Tirana on preparing the questions in accordance with program defined in the law.
5. The Commission shall, in cooperation with experts from the School of Magistrates and Faculty of Law at the University of Tirana, create a pool of questions with at least 10 sets of questions of 100 testing points each. This pool of questions is constantly updated with the development of the upcoming tests for the selection of judges in administrative courts. The Commission shall, under the auspices of the president, draft and sign the minutes for completing the creation of the pool of questions in accordance with the rules of this decision.
6. The president of the Committee shall report in writing to the HCJ on the progress and completion of the creation or updating process of pool of questions of the selection test, at

least one week before the date set for testing by the HJC. He attaches to the report the compiled minutes under point 5 of this Article.

7. The Members of the Commission for compiling the Pool of Questions are required to maintain the confidentiality of the questions and answers.

## **Article 7**

### **Contents of the sets of questions**

1. Each set of questions developed by the Commission should be organized in the form of alternatives questions and concrete practical cases, the answers to which are given schematically.

2. The thesis must include knowledge of constitutional, administrative, civil, civil procedural, financial, human rights law, legal writing and reasoning, with a total of 100 points.

3. Each thesis contains:

a) 1 practice case from the field of administrative law, valid in 10% of the total points. The contents of the practical case is broken down into questions, requiring answers in the alternatives form;

b) 50% of the questions from the administrative law in the alternatives form;

c) 10% of the questions from the constitutional law;

d) 10% of the questions from civil procedural law;

e) 5% of the questions from civil law;

f) 5% of the questions from financial law;

g) 5% of the questions of human rights; and

h) 5% of the questions by writing the legal reasoning.

Each question should have only one correct option.

4. Each set of questions is accompanied by the key to the answers, indispensably indicating the legal reference settling the question beyond any doubt.

5. Upon completing the initial drafting process or the upcoming update of the pool of questions, the Commission deposits the ciphered set of questions into sealed envelopes with the stamp of the School of Magistrates with the HCJ, being preserved by Deputy Chairman of HCJ. The pool of questions is owned by the High Council of Justice.

## **Article 8**

### **Date of selection test**

1. HCJ sets the testing dates by a decision, according to the needs and after the announcement of vacancies.

2. In setting the date of the written test, the HCJ makes arrangements for the test to be conducted on same day for judges of administrative courts of first instance and on another day for judges of Administrative Appeal Court.

## **Article 9**

### **Establishing a Test Management Commission**

1. HJC, establishes a commission by a decision that administers qualification test. The Test Management Committee consists of 5 members selected as follows:
  - a) a representative chosen by a majority of votes of the HJC from within or outside its ranks, being also the president of the Commission;
  - b) a representative elected by the Steering Board of the School of Magistrates;
  - c) a member of the Supreme Court elected by the common meeting of the judges thereof;
  - ç) two representatives from international institutions, assisting or cooperating with the justice system, selected by the Steering Board of the School of Magistrates.
2. The Steering Board of the School of Magistrates and Supreme Court President sends to HCJ names of the representatives of this Commission, not later than one week from receipt of the HCJ request. Each member of the Commission shall complete and sign the declaration, that he is not in the situation of conflict of interest while assuming this task. The statement is drafted as a standard model in Annex 2 and consists an integral part of this decision.
3. The Commission is responsible for organizing, following up the testing procedure, evaluation and announcement of results.
4. The Commission, in cooperation with the School of Magistrates, trains candidates in advance on the method of completing answering the sets of questions, which is evaluated electronically.
5. The Chairman of the Commission shall report in writing to the HCJ for the progress and completion of the test selection process, no later than one week from its occurrence.

## **Article 10**

### **The conduct of the Test**

1. The selective test is conducted in written form, associated with electronic evaluation of alternative responses, at the presence of candidates with a public open procedure.
2. Selection of the set of questions for the test out of the pool of all questions prepared is made by the candidates prior to start of the selective test.
3. Selection test is conducted based on a safe ciphered procedure and it may be supervised by an independent group of monitoring, domestic and foreign, by the organizations with which the School of Magistrates has had and has already cooperative relations.
4. Selection of the set of questions for testing out of all the pool of questions prepared is made by the candidates prior to selective testing.
5. The Test Management Commission, if it finds a violation of testing rules by the candidate, has the power to impose exclusion also from testing, keeping a record of the nature and circumstances of the breach. The finding of infringement is main ex officio by the Commission or upon the notification of independent monitors.
6. Contest Rules of admission to the School of Magistrates, approved by its Steering Council, will be applied as far as possible and as long as they do not conflict with this decision.

## **Article 11**

### **Appointing the monitors**

1. The conduct of the test can be observed by independent monitors, who cannot be persons involved in the Albanian judicial system or professors of the School of Magistrates. Accreditation of observers is made on the basis of their own data. A local or international organization may not have more than two or three monitors.
2. The applications of monitors for the accreditation is submitted to the Test Management Committee no later than 5 days prior to testing. The Commission approves requests no later than 3 days from their submission. Against refusal to grant accreditation, a complaint may be filed with the Deputy Chairman, who shall decide within 24 hours.

## **Article 12**

### **Rights and duties of monitors**

While performing their duties, monitors have the following rights and obligations:

- a) to freely observe all aspects of the preparation and conduct of testing;
- b) to submit written comments to the Test Management Committee for each type of irregularities they observe;
- c) to see or notice documentation or testing materials;
- ç) comply with the requirements of this decision and the Management Committee guidelines for the surveillance of the test;
- d) to not violate the right of the candidate for the competition and not to hinder the test process, management and evaluation.

## **Article 13**

### **Announcement of results**

1. Considered to have successfully passed the selection test shall be the candidates who received no less than 70 percent of the points total.
2. The Test Management Committee ranks definitively the winning candidates, according to the number of points received and sends the list in triplicate to the HCJ. The Commission's assessment is, in such a ranking, based on the electronic score determined already by the methodology in cooperation with international institutions operating in the field of justice and strengthening the rule of law in Albania.
3. The list is signed by all members of the Commission.
4. If the number of winning candidates, under this Article, is greater than the number of appointed judges, other candidates are kept on a waiting list, without being required to conduct another selection test, in the case of a vacancy.
5. The waiting list is valid for a period not longer than 3 years.

## **Article 14**

### **Right of appeal concerning the evaluation**

1. The participants in selective tests can complain about the extent and method of the evaluation before the Test Management Committee within 5 days since the announcement of results. The Commission also examines again the evaluation of answers and notifies the complainant.
2. If the Commission makes an assessment different from the first evaluation, it shall immediately notify HCJ in writing.

## **CHAPTER III SELECTION OF CANDIDATES**

### **Article 15**

#### **Selection of candidates**

1. HJC selects candidates who successfully pass the selection test, by taking into consideration the result of the selection test.
2. In this procedure, the rules of the Decision no. 274/2 dated 02.16.2011 of the High Council of Justice "On the organization and operation of the Commission for the examination of the candidates for judges" as amended, are taken into account, to the extent possible and without violating the rules of this decision.

## **CHAPTER IV FINAL PROVISIONS**

### **Article 16**

#### **Financial effects**

The financial effects of this decision are covered by the budget of the HCJ.

### **Article 17<sup>2</sup>**

#### **Transitional rules for the first exam**

1. The first selection test for judges to the Administrative Court of First Instance will take place in Tirana, 26<sup>th</sup> of March, 2013.
2. The first selection test for judges to the Administrative Appeal Court will take place in Tirana, 25<sup>th</sup> of March, 2013.
3. The School of Magistrates is tasked to take effective measures for the qualitative and timely organization of the qualifying test of candidates.

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<sup>2</sup> <sup>1</sup>Amended by the Decision no. 305, dated 08.03.2013 "On setting out the dates for conducting selection test for judges to the administrative court of first instance and in the administrative appeal court"

4. The High Council of Justice administration is tasked with making public a notification on the official page of HCJ and at least on two national newspapers on the date and venue of the exam.

**Article 18**

**Entry into force**

This decision shall enter into force after its publication in the Official Journal.

**For the High Council of Justice**

**DEPUTY CHAIRMAN**

**Mr. Elvis Çefa**