

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

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Unofficial translation of the Regulation on Judges' Evaluation System

Data of compilation 28.05.2015; done by Robert Gerbi

D E C I S I O N

No. 261/2, dated 14.04.2010

JUDGES' EVALUATION SYSTEM

Pursuant to Law no.8811, dated 17.05.2001 "On the organization and functioning of the High Council of Justice", articles 1, 2, point "dh" and 16, paragraph 1, point "dh" of the Law no 9877, date 18.02.2008 "On the Organization of Judicial Power on the Republic of Albania", articles 13 and 44, the High Council of Justice, as the responsible authority that conducts the evaluation of judges of the courts of first instance and judges of the courts of appeal,

D E C I D E D:

To adopt the Judges' Evaluation System as follows:

The High Council of Justice, in the evaluation of the judges of first instance and judges of appeal, adheres to the principle of respecting the independence of judges.

CHAPTER I **GENERAL PROVISIONS**

Article 1 **The purpose of the system**

- a) Identify the professional values of judges for the purpose of their career;
- b) Identify judges with professional inadequacy and judges with the highest quality;
- c) Identify the problems encountered in the courts during the verification of their professional activity;
- d) Identify the needs for continuous training of judges, in the service of enhancement of professionalism of judges of the courts of first instance and courts of appeal and that of the chairmen of these courts, based and conducted on the criteria and procedures provided therein;

Article 2

Ways and form of evaluation

1. Evaluation of the judges' work will be conducted by evaluating all the elements of their working process.
2. This evaluation will be prepared in a descriptive and statistical form by the Inspectorate of the High Council of Justice, and will be carried out by the Council itself
3. The evaluation system includes three phases:
 - a) Evaluation of the chairman of the court followed by the self-assessment of the judge, (the latter is not a necessary act which is used only in those cases where the judge decides to fill out the self-assessment form);
 - b) The verifying report and the draft evaluation act of the Inspectorate of the High Council of Justice;
 - c) Evaluation Act of the High Council of Justice.
4. The evaluation process will be based on the data and procedures established by this system, referring to the measuring criteria for the judicial actions provided for in its Annex 1.
5. The chancellor, to facilitate the evaluation at each court, assigns and supervises one or more employees of the administration / judicial secretary, who are responsible of compiling and ensuring the authenticity of the data presented in the statistical table. The following should be reflected in those tables for each judge:
 - the number of cases adjudicated by the judge as a rapporteur / presiding judge, the number of cases in which the judge has taken part as a member of the panel (by including even the number of cases where the judge has been as a rapporteur or as a delegated member to the courts of the same level), during a calendar year;
 - the number of cases appealed to higher courts, the number of cases quashed and amended by them and the number of upheld cases;
 - The number of cases adjudicated beyond the standard time limits set by the High Council of Justice.

In the statistical table shall be calculated as a percentage: the number of cases quashed and amended by the higher courts (specifying the cases that are quashed and the cases with amended decisions) in ratio with the number of cases appealed, and the number of cases adjudicated beyond the standard time line compared with the number of cases adjudicated by the judge as rapporteur/ presiding judge.

6. The High Council of Justice, in November of each year, determines the courts, the judges of which will be evaluated in the following year and the period of evaluation.

CHAPTER II EVALUATION CRITERIA

Article 3 Groups of evaluation criteria

Professional and ethical evaluation of judges will be carried out according to the criteria grouped as follows:

- a) The group of general, organizational and implementing professional skills.
- b) The group of legal and technical professional skills.
- c) The group of human capacity and professional commitment.

Section I The group of general, organizational and implementing professional skills

Article 4 General, organizational and implementing professional skills.

In the group of general, organizational and implementing professional skills will be included as follows:

- a) Effectiveness and productivity;
- b) Methodology;
- c) Speed;
- d) Planning of sessions.

Article 5 Effectiveness and Productivity

The ability of a judge to be effective in resolving the cases that have been assigned to him for adjudication is evaluated through this criterion in qualitative and quantitative terms, in relation to the measuring criteria of judicial actions prescribed by the High Council of Justice

in order to be productive in reasoning and submission of decisions within the legal time limits.

Article 6
Methodology

The ability of a judge to plan specific actions that relate to the case according to a clear methodology and to organize the necessary procedural or administrative actions in or out of the court premises where the judge exercises the function is evaluated through this criterion.

Article 7
Speed

The ability of a judge to resolve the cases assigned to him for adjudication in reasonable timeframes is evaluated through this criterion.

Article 8
Planning sessions

The ability of a judge to plan the judicial sessions fairly and in time, in order to be effective in completing them in time is evaluated through this criterion.

Section II
Legal, professional and technical skills group.

Article 9
Professional, legal and technical skills.

In the group of criteria of professional, legal and technical skills of the judge that will evaluate the above aspects of the work process of the judge will be included:

- a) Clarity of writing the decision;
- b) Ability to conduct the trial;
- c) Ability to create and administer a judicial file.

Article 10
Clarity of writing the decision.

The ability of a judge to write a judicial decision simply and clearly, which should be understandable by all is evaluated through this criterion.

Article 11

Ability to conduct the trial

The ability of the judge, to conduct a fair judicial process, to fairly run and orientate the judicial debate by expressing himself clearly in accordance with the rules provided by law and judicial ethics is evaluated through this criterion.

Article 12

Ability to create and administer a file

The ability of a judge, to create a judicial file by clearly structuring its constituent acts in order to be easily accessible is evaluated through this criterion.

Section III

The group of human capacity and professional commitment

Article 13

In the group of human capacity and professional commitment of the judge are included:

- a) Judge's ethics during and out of the judicial process;
- b) Respect of solemnity and discipline at work;
- c) Attendance and involvement in professional activities;
- d) Various writings and publications of legal nature.

Article 14

Judge's ethics during and out of the judicial process

The communication skills of the judge in the course of judicial processes as well as his behavior is evaluated through this criterion.

Article 15

Respect of solemnity and discipline

The ability of a judge to conduct a solemn judicial process, in accordance with the law and bylaws in its implementation and to respect discipline at work is evaluated through this criterion.

Article 16

The ability of attendance and involvement in professional and training activities.

The ability of the judge to actively take part in professional and training activities developed in or out of the court premises, by properly identifying needed issues and treating them effectively is evaluated through this criterion.

Article 17

Various writings and publications of legal nature

The judge's engagement in intensifying his legal studies by giving his contribution in this respect is evaluated through this criterion.

Section IV

Evaluation of the Chairman of the Court of First Instance and the Chairman of the Court of Appeal

Article 18

The chairman of the court of first instance and the chairman of the court of appeal will be evaluated on their judicial activity in accordance with the groups of criteria listed above.

CHAPTER III

SOURCES, ACTS AND EVALUATION PROCEDURES

Article 19

Evaluation by the Chairman of the Court

1. The chairman of the court of first instance and the chairman of the court of appeal, where the judge exercises his function, conducts the evaluation of the judge in the form of a written act according to the form, which is an integral part of this system.
2. The chairman, describes the activity of the judge in this form, making an evaluation about his observance of discipline at work, solemnity in proceedings and the ethics.
3. This evaluation of the chairman of the court is accompanied with the statistical tables for volume, quality and speed, which are an integral part of this system, with the decisions of the judge which are quashed or amended by higher courts, and where appropriate, with the acts that prove the data presented in the description of the activities of a judge.
4. Completion of the statistical tables for the judge, documentation of the decisions of the judge which are quashed or amended by higher courts and the judge's evaluation by the chairman of the court are made no later than 60 (sixty) days from the date of notification of the initiation of the evaluation procedure.

5. The evaluation by the chairman of the court, the statistical tables and quashed or amended decisions, will be made known to the judge within 2 (two) days from the date of their completion through the signing of the notification act by them.

Article 20

Self-assessment of the judge

1. The judge, after being acquainted with the evaluation of the chairman and the accompanying acts according to Article 19, paragraph 3, has the right to conduct a professional and ethical assessment of his work through a written act according to the form, which is a component part of this system, describing his activity, making a general assessment of this activity and expressing himself on each skill. Completion of the self-assessment form is not compulsory.

2. The chairman of the court of first instance and the court of appeal have the right of self-assessment, too.

3. The self-assessment of the judge is conducted within 5 (five) days from the moment of being introduced with the statistical tables, the decisions quashed or amended by higher courts and the evaluation of the chairman of the court, submitting it to the latter.

4. The self-assessment of the chairman of the court of first instance or the chairman of the court of appeal is conducted within 5 (five) days from the moment of being introduced with the statistical tables and decisions quashed or amended by higher courts

5. In any case, the self-assessment of the judge of the court of first instance, the judge of the court of appeal, the chairman of the court of first instance or the chairman of the court of appeal must be accompanied with the decisions selected by themselves in accordance with the definition contained in article 23, point 1, letter "b" of this system, and where appropriate, with the acts proving the data presented in the description of his activity.

Article 21

Evaluation of human capacity and professional commitments of the chairman of the court

The evaluation of human capacities and professional commitments of the chairman of the court of first instance and court of appeal, as described in Article 18, is made by the Inspectorate after the evaluation acts being submitted there in accordance with article 22.

Article 22

Submission of evaluation materials to the Inspectorate

The chairman of the court of first instance and the court of appeal ensures, within 2 (two) days from the submission of the self-assessment of the judge of the court of first instance or the court of appeal, to submit to the Inspectorate of the High Council of Justice the evaluation materials of each judge of the court of appeal or the court of first instance, acts which are specified in article 19 and 20 of the System.

Article 23

Judicial decisions and other data about judicial activity

1. For the evaluation of the judge will be used:
 - a) The data received from judicial files belonging to 7 decisions of the judge for each year of evaluation, selected by lot by the Inspectorate. Four civil conflicts and three criminal cases will be selected by lot for judges who are not assigned to judicial chambers.
 - b) Five decisions presented by the judge himself for each year he is evaluated of;
 - c) The decisions of the judge which have been quashed or amended by higher courts. When decided by the inspector in charge of verification, the whole file of proceedings for quashed decisions can be verified in order to identify the causes of quash.
 - ç) The data deriving from judicial files selected by lot, which belong to 20% of the cases tried by the judge beyond the deadlines set out in the provisions that are parts of this system,;
 - d) The data resulting from the verification of complaints;
 - dh) The data resulting from the inspection of the judge or the court;
 - e) The evaluation of the chairman of the court;
 - ë) Self-assessment of the judge (if he decides to fill out the relevant form).

2. The data deriving from the inspection of judicial files, as defined in paragraph "1" of this provision, are documented in a verifying report by the inspector in charge.

Article 24

The rules of the lot and their documentation

1. Judicial files which will be subject of inspection by the inspector in charge under paragraph 1, letter "a" of article 23 of this system, are identified at a random selection of the decisions of the judge made within the evaluation period.

2. The decisions of the judge made in the court where the judge exercises his functions permanently and the decisions of the judge made in the court where the judge is delegated to for the adjudication of concrete cases are subject of selection by lot.

3. The lot, according to this provision, is carried out after the initiation of the procedure of evaluation of the judge regardless of other actions that are integral parts of this process.
4. The conduction of the lot is ordered and supervised by the inspector in charge, taking into consideration the definition in point "1", letters "a" and "d" of article 23 of this system.
5. The inspector in charge identifies in advance the chamber and section where the judge has exercised his functions during the evaluation period, and then, depending on the number of decisions made for each category of cases, determines the number of decisions that will be selected for each category.
6. The lot will be performed in the court where the judge exercises his functions and it is performed by the judicial administration of the court.
7. The lot will be performed in the presence of the judge when he decides to take part.
8. The lot, includes all the decisions of the judge, where he has been the presiding judge or rapporteur, except the decisions in which he has been in the minority.
9. The number of decisions of the judge selected by lot for civil cases without opposing parties, for the administrative-criminal cases and unregistered civil cases should not exceed 20% of the total number of selected decisions. Decisions of this category, selected after completion of this quota are not considered and the lot continues on selecting decisions of other categories.
10. The number of decisions of the judge selected by lot, having disposed of the termination of proceedings on civil cases and the rejection of appeal should not exceed 10% of the total number of selected decisions. Decisions of this category selected after completion of this quota, are not considered and the lot continues on selecting decisions of other categories.
11. The lot, according to this provision is documented in the minutes signed by all attendees.

Article 25

Documentation by the School of Magistrates

1. The School of Magistrates, as the only body responsible for the continuous training of judges, for the purposes of this system, makes the documentation and informs the High Council of Justice on participation of the judge in professional and training activities.

2. The School of Magistrates receives the information from the inspector in charge after the initiation of the evaluation procedure, regardless of other actions which are component parts of this process.

3. The School of Magistrates ensures, within 10 (ten) days from the submission of the request, to send to the Inspectorate of the High Council of Justice the requested information.

Article 26

Personal interview

1. The judge, after the collection of the data by the inspector in charge, through an act in writing, has the right to request a personal interview with the Inspectorate of the High Council of Justice, where various elements of performance evaluation of the judge are discussed.

2. The judge presents his request in writing within three (3) days from the moment of notification of data collection, where he sets the subject matter and reasons of the interview.

3. The judge will be interviewed by the Chief Inspector or Inspector in charge within 5 (five) days from the submission of the request, who also provide documentation of this interview through a written act, which is attached to the evaluation dossier

Article 27

Preliminary Evaluation

1. The Inspectorate of the High Council of Justice prepares the documentation for the evaluation of the judge.

2. The inspector in charge ensures the accuracy and completeness of the data received by the Inspectorate and, where appropriate, requires the confirmation of their accuracy from the chairman of the court or their completion accordingly by the chairman of the court or the judge.

3. The inspector in charge, after the collection of acts and creation of the evaluation file of the judge or the chairman of the court, not later than thirty (30) days, designs the verifying report of the evaluation.

4. In the verifying report it is described: the evaluation period, the judge's personal data; chamber or section where he has conducted his activity during the evaluation period; disciplinary measures taken against him during that period as well as reflects in details the data resulting from verifications under article 23, paragraph 1 of the system. In conclusion,

the inspector makes a proposal on the evaluation of the judge referring to each group of evaluation criteria.

5. The inspector in charge will immediately deposit the final evaluation report and the evaluation file of the judge or the chairman of the court to the Chief Inspector.

Article 28

Evaluation draft-act

1. The Chief Inspector of the High Council of Justice, after considering the evaluation file of the judge or chairman of the court, and the judge's personal file that is in the High Council of Justice, prepares the reasoned evaluation draft-act not later than 60 (sixty) days.

2. In the evaluation draft-act the judge is evaluated as follows:

- a) Very good
- b) Good
- c) Acceptable
- ç) Incompetent

Article 29

Method of evaluation

The final evaluation is based on the general framework of the work of the judge taking into account his / her capacity in connection with the three groups of evaluation criteria (Chapter II, Sections I, II and III), subject to the following rules:

The overall evaluation "very good" can only be granted if the job of a judge is either "very good" for the three sections or "very good" for section II and in one of the other two sections and "good" for the remaining one.

The overall evaluation "incompetent" is mandatory if the work of a judge is assessed as "incompetent" in two of the three sections.

The overall evaluation "incompetent" may be given if the work of a judge is evaluated "incompetent" in section II and no more than "acceptable" in the other two sections.

The evaluation of the judge cannot be more than "acceptable" if the judge is evaluated "Incompetent" in one of the sections.

Article 30

The right of appeal

The evaluation draft-act, prepared by the Chief inspector may be appealed by the judge to the High Council of Justice, within 10 days from the date of its communication.

Article 31
Review of complaint

1. In the event of an appeal, the High Council of Justice, no later than 2 (two) months, reviews the judge's evaluation file made available to it.
2. The Council hears the judge, and him, the Council hears the Chief Inspector, with the right to ask questions and decide on the evaluation.

Article 32
Evaluation Act

1. The High Council of Justice, within four (4) months from the completion of the evaluation of the Inspectorate, examines the evaluation file and the evaluation draft-act of the judge or the chairman of the court, finally deciding on their evaluation.
2. When the High Council of Justice deems that the judge's evaluation should be on a lower level than the evaluation made by the chief inspector in the evaluation draft-act, assigns one of its members (selected by the National Judicial Conference) to compile a new evaluation draft-act which is communicated to the judge. The latter has the right within 10 (ten) days of being informed, to submit his objections. The final evaluation of the judge will be attained in a plenary session of the Council, where the judge has the right to appear by submitting his objections and answer to the questions of the members of the Council.
3. The Act of the High Council of Justice for the evaluation of the judge becomes part of the judge's personal file, meanwhile the evaluation file is stored in the Legal, Human Resources and Scientific Research Directorate, until the upcoming evaluation.
4. The Act of the High Council of Justice for the evaluation of the judge must be reasoned. If the Council agrees with the reasoning made by the chief inspector in the evaluation draft-act, it is sufficient to make reference to this reasoning.

Article 33
Accelerated Assessment

1. Assessment in an accelerated procedure provided for in article 43, paragraph 2 of Law No. 9877, dated 18.02.2008 "On the organization of the judicial power in the Republic of Albania", will be implemented in compliance with articles 2-32 of this system except as otherwise provided in this article.

2. The period of assessment for an accelerated procedure will be the last year, the full calendar year, the decisions quashed or amended by higher courts during the last evaluation period in process. The list of the judges to be evaluated according to the procedure is approved by the High Council of Justice.

3. The deadline for completing the statistical tables, documentation of the decisions quashed or amended by higher courts and evaluation of the judge by the chairman of the court is 30 (thirty) days from the notification of the initiation of the evaluation procedure.

4. The number of cases that will be selected by lot by the inspectorate is 4; the number of decisions that may be presented by the judge himself is 3, whereas for the cases adjudicated beyond the standard time line, only 5% of them will be subject to the lot (according to article 24, paragraph 1, letter "a", "b" and "c" of the system).

5. The deadline for completion of the evaluation file and preparation of the evaluation draft-act by the chief inspector is 30 (thirty) days.

6. The High Council of Justice, decides on the evaluation of judges no later than two months from the time of submission of the evaluation draft-act by the chief inspector.

Article 34 **Transitional provision**

1 Evaluation of the judges of the courts of first instance and courts of appeal for 2005-2006, will be conducted according to the provisions stipulated in Decision Nr.193 / 2, dated 11.05.2006, of the High Council of Justice, with additions and relevant changes.

2. Judges, who maintain this status, although temporarily serving at other institutions, will be evaluated on their professional skills on the judicial activity they have conducted, upon their return to exercise the function of a judge.

Article 35 **Final provision**

1. This Professional and Ethics Evaluation System takes effect immediately.

2. The Professional Skills Evaluation System of Judges, approved by Decision of the High Council of Justice No.193 / 2, dated 11.05.2006, added and amended by the decisions of the High Council of Justice, No. 207/2, dated 07.02.2007 and No. 238/1 / c, dated 24.12.2008 and the Decision of the High Council of Justice, part of it, nr.199 / 3 dated 15.09.2006, "On the measuring criteria of the judicial activity" are repealed.

THE HIGH COUNCIL OF JUSTICE

Approved by the decision of the High Council of Justice, no. 261/2 date 14.04.2010.