

# MODEL RULEBOOK ON THE CRITERIA, INDICATORS, METHODS AND PROCEDURES FOR PERFORMANCE EVALUATION OF JUDGES AND COURT PRESIDENTS



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PROCEDURES FOR PERFORMANCE EVALUATION OF JUDGES AND COURT  
PRESIDENTS

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## **PROPOSAL**

Pursuant to Article 36, paragraph 4 and Article 38, paragraph 7 of the Law on Judges (Official Gazette of the RS, No. 10/23) and Article 19 of the Law on the High Judicial Council (Official Gazette of the RS, No. 10) /23), the High Court Council, at the session of....., adopts:

# **RULEBOOK ON THE CRITERIA, INDICATORS, METHOD AND PROCEDURE FOR PROFESSIONAL EVALUATION OF JUDGES AND COURT PRESIDENTS**

## **BASIC PROVISIONS**

### **Article 1**

This Rulebook (hereinafter: the Rulebook) shall regulate the purpose, rules, criteria and indicators for the professional evaluation of judges and court presidents, the evaluation procedure, the composition and the way the evaluation body works.

### **Purpose of the evaluation**

#### **Article 2**

The purpose of the performance evaluation of judges and court presidents is to assess, maintain and improve the quality of work, while respecting the independence of judges, with the aim of strengthening public trust in the work of judges and courts, preserving and improving the expertise, competence and promotion of judges and court presidents.

### **Subject of the evaluation**

#### **Article 3**

The scope of the evaluation shall include all tasks performed by a judge, or a court president, while especially considering working conditions.

### **Basic rules and principles of the evaluation**

#### **Article 4**

The evaluation shall be carried out based on publicly accessible, objective, unique and comprehensive criteria based on qualitative and quantitative indicators.

The criteria and indicators under paragraph 1 of this Article shall be regulated in more detail by law and this Rulebook.

The evaluation procedure shall be based on the principles of fairness and equality, with the participation of the judge or the court president whose work is being evaluated.

In the evaluation procedure, the judge, or the court president whose work is being evaluated, shall be granted direct access to the source of evaluation data, the right to self-evaluation, the right to comment on the proposed evaluation decision and the right to a legal remedy against the evaluation decision.

## **Time of the evaluation**

### **Article 5**

The work of judges and court presidents shall be subject to regular evaluation, except for judges and presidents of the Supreme Court and judges over the age of 60.

The work of a judge over the age of 60 may be evaluated upon personal request of the judge or upon a reasoned proposal of the court president in the case when the judge or the court president is being elected, for the purposes of changes of the annual work schedule in the court, and for other important reasons.

As an exception to paragraph 2 of this Article, pursuant to a decision of the High Court Council, the work of the judge and the court president may be evaluated in an extraordinary manner.

## **Regular evaluation**

### **Article 6**

The work of a judge shall be regularly evaluated once in five years, and the work of a court president once in three years.

The period of five years for the regular professional evaluation of a judge shall be determined from the last evaluation, and the period of three years for the regular evaluation of a court president from the assumption of the office of the court president.

For a judge or a court president who is being regularly evaluated for the first time, the period of regular evaluation shall be calculated from the date of assuming the office of judge or court president.

The work of a judge or a court president who has performed the function of judge or court president continuously for at least one year shall be evaluated. The evaluation of the work of a judge or a court president who has not performed the

function continuously for at least one year shall be postponed until the conditions for the evaluation are met.

## **Extraordinary evaluation**

### **Article 7**

Pursuant to the decision of the High Court Council, the work of a judge and a court president may be evaluated extraordinarily in case of:

- election of a judge or court president;
- deciding on mandatory training of a judge due to a change of the legal matter on which the judge needs to adjudicate;
- significant changes in regulations and jurisdiction of the court;
- a reasoned request by the judge or the court president whose work is being evaluated.

## **Evaluation criteria**

### **Article 8**

The judge shall be evaluated based on the following basic criteria: professional knowledge and ability to apply it; competence to think and reason analytically in relation to factual and legal issues; competence to make a decision within a reasonable time; competence to conduct proceedings and hearings; competence of spoken and written expression and argumentation; competence to organise the judge's work; leadership competence if the judge is appointed to such a position; and assuming additional work and responsibilities.

Additional criteria prescribed by this Rulebook shall be also applied to the professional evaluation of judges.

## **Indicators and evaluation materials**

### **Article 9**

Indicators refer to the degree of achievement of the criteria and shall be determined based on the evaluation materials:

- the report on the work of the judge, the content of which shall be determined by the High Judicial Council by a special act;
- the report on the work of the court, the content of which shall be determined by the High Judicial Council in a special act;
- the judge's personal record;
- certificates and diplomas of professional training;

- direct review of three cases of legally concluded proceedings that have not been considered before immediately higher court, which are jointly determined by the commission's rapporteur and the judge whose work is being evaluated;
- review of three legally concluded cases that have been challenged by a legal remedy, which are jointly determined by the commission's rapporteur and the judge whose work is being evaluated;
- attending proceedings and hearings, that is, sessions of court panels;
- the ratio of the number of cancelled decisions to the total number of decisions made;
- reports on objections adopted in order to speed up the proceedings;
- reviews of well-founded complaints due to delayed proceedings in relation to the total number of submitted complaints in the period of the evaluation;
- reports of automated case management on the number of scheduled hearings in relation to the total number of ongoing cases and the flow of cases;
- reports from automated case management on the average time required to decide on a case;
- reports on the number of cases with suspended proceedings due to statute of limitations in relation to the total number of ongoing cases;
- minutes of the interview with the judge or the court president whose work is being evaluated;
- remarks and suggestions of the judge or the court president whose work is being evaluated.

## **Professional knowledge and ability to apply it**

### **Article 10**

Professional knowledge and the ability to apply it in the work of a judge implies the knowledge and application of relevant substantive and procedural law, competence to successfully master a new legal field, continuous professional development, readiness to accept innovations, new techniques and work methods, comprehensive understanding of legal and social reality, understanding of wider social contexts - social, economic, political, broad general education and awareness, active participation in solving controversial legal issues.

Indicators of professional knowledge and the ability to apply it shall be determined based on reviewing the report on the judges' work, the court's work, the judge's personal record, certificates and diplomas of professional training, direct review of three cases of legally concluded proceedings that have not been considered before immediately higher court, review of three legally concluded cases

that have been challenged by a legal remedy, attendance at hearings and trials and the ratio of the number of revoked decision to the total number of decisions made.

## **Competence to think and reason analytically in relation to factual and legal issues**

### **Article 11**

The competence to think and reason analytically in relation to factual and legal issues shall imply the knowledge and skills to determine the factual situation, applying logical arguments and legal interpretation techniques, distinguishing the essential from the trivial, being pragmatic in the use of case law and literature, being able to analyse, classify and connect complex problematic issues, being able to empathise with life situations, to define and clarify relationships and reasons for disputes, taking a clear and reasoned position during the final settlement of disputes, being able to resist influences and being able to self-assess.

Indicators of the competence to think analytically and solve a legal issue shall be determined based on reviewing five final judgments or decisions that correspond to judgments made in regular proceedings that have been challenged by legal remedies, of which three decisions have been amended or revoked, and based on the ratio of the number of decisions that have been revoked and the total number of decisions that have been made.

## **Competence to adjudicate within a reasonable time**

### **Article 12**

The competence to adjudicate in a reasonable time shall imply a judge's competence to respect the deadlines for taking procedural actions, given the conditions of work in the court, human and material resources, to prioritise the cases, make quick judgments, properly plan to end the proceedings within a reasonable time and structure the case in advance.

Indicators of the competence to adjudicate within a reasonable period of time shall be determined based on the report on accepted complaints to speed up the proceedings in relation to the total number of submitted complaints in the evaluation period, based on reviewing well-founded complaints of the delay of the proceedings in relation to the total number of submitted complaints in the evaluation period, reports of automated case management on the number of scheduled hearings in relation to the total number of ongoing cases, reports from the automated case management on the average time to decide on a case, the number of suspended cases due to statute of limitations in relation to the total number of ongoing cases, the judge's performance related to the order of receipt, urgency and date of cases.



## **Competence to conduct proceedings and hearings**

### **Article 13**

The competence of conducting proceedings and hearings shall involve good preparation and knowledge of the subject of the proceedings, steering the discussion to the resolution of disputed factual and legal issues, competence to maintain procedural discipline, ensuring the respect of the procedural rights of the parties and participants in the proceedings, openness to the views of the parties and participants in the proceedings, respecting the arguments of the parties and participants in the proceedings, responding correctly to conflict situations, respecting the parties and protecting the rights of the parties and participants in the proceedings, creating a constructive and confidential atmosphere, active listening and understanding, asking precise questions and comprehensible expression.

Indicators of the competence of conducting proceedings and hearings shall be determined based on reviewing the minutes of the trials used in the evaluation procedure and by attending the hearing.

## **Competence of good spoken and written expression and argumentation**

### **Article 14**

The competence of good spoken and written expression and argumentation shall imply systematic, comprehensible and methodically correct presentation of arguments, use of clear and comprehensible language in spoken and written communication, clear, concise and brief presentation and differentiation of complex factual and legal issues, taking clear positions about issues important for the subject of the proceedings, adequate use of various legal interpretation techniques, ability to write in an organized and clear manner, using active sentences with correct grammatical constructions, application of a standardized decision format and the correct legal terms.

Indicators of the competence of good spoken and written expression and argumentation shall be determined based on reviewing the case files used in the evaluation procedure and by attending the hearing.

## **Competence to organize the judge's work**

### **Article 15**

The competence to organize the judge's work shall imply promptness and effectiveness in the performance of the judge's function, time planning with rational prioritising, definition of goals, determination and planning of human and material resources, goal-orientation and concentration of procedural actions and evidence,

good ratio between the expected and achieved scope of the judge's work (norms), coping with the influx, rational preparation of hearings within reasonable deadlines, while respecting and well utilising working hours.

Indicators of the competence to organize the judge's work shall be determined based on the report on the judge's performance, report on the work of the court, report of the president of the court on accepted complaints in order to speed up the proceedings in relation to the total number of submitted complaints in the evaluation period, based on reviewing well-founded complaints about the delay of the proceedings in relation to the total number of submitted complaints in the evaluation period and based on report of automated case management on the number of scheduled hearings in relation to the total number of ongoing cases.

## **Capacity to perform tasks of an executive position**

### **Article 16**

The capacity to perform tasks of an executive position shall imply active participation in the internal organization of the court, team skills, cooperation and respect for others, initiative to introduce innovations in work, organization and definition of goals, transfer of work experience in accordance with responsibilities, assessment of the capacity of human and material resources and their optimal deployment, communicativeness, openness and exchange of experiences, feedback, active participation in the resolution of disputed legal issues.

Indicators of the capacity to perform tasks of an executive position shall be determined based on the judge's performance report, report of the court president and minutes from the meeting of all judges where the opinion on the appointment of the president of the department is found, and the minutes of the department meetings.

## **Assuming additional work and responsibilities**

### **Article 17**

Assuming additional work and responsibilities shall imply the initiative and participation in solving issues of importance for the work of the court, introducing new technologies, techniques and work methods, developing new ideas and solutions by preparing reports and studies, finding solutions for disputed legal issues, training of interns and other employees in the court, participation in the work of commissions in the court, participation in the work of working groups for drafting regulations, conducting professional trainings, managing court practice, active cooperation with the spokesperson of the court to inform the public about the work of the court.

Indicators of assuming additional work and responsibilities shall be determined based on the report of the president of the court and the annual schedule of work, interview with the judge who is being evaluated, reviewing published papers and the reports from conducted trainings.

## **Additional evaluation criteria**

### **Article 18**

Additional criteria shall also apply to the evaluation of the judge's work: socially responsible and exemplary conduct, which shall imply objectivity, impartiality, independence in adjudicating, acting and thinking, refusal of influence and potential influence, readiness for self-criticism, personal civic courage, social activism and advocacy for the respect of human rights, understanding and respect for parties, responsibility for maintaining a positive public image of the judiciary.

The indicators of the additional criteria shall be determined based on published professional papers, lecturing within professional education, participation in working bodies for drafting regulations and public policy documents, participation in professional and scholarly conferences, participation in public debates on regulations that are important for the independence, impartiality and functioning of the judiciary, participation in international cooperation projects and other public appearances.

## **Working conditions**

### **Article 19**

Working conditions that are considered when evaluating the work of a judge and a court president shall include: scope of work of the judge (fulfilment of the norm), adjudication in several different legal areas, length of judicial service, material and technical conditions of work in the court, such as: availability of the cabinet and courtrooms, equipment of the court with information and communication equipment; work of the judge outside the court, human resources: number of assistant judges and other court staff in the court in relation to the number of judges.

The indicators of working conditions shall be determined based on the report on the work of the court, the annual work schedule, the report of the Ministry of Justice and the court president on the material and technical equipment of the court, the report of the court president on the working conditions of the judge.

## **Criteria for evaluating the work of the court president**

### **Article 20**

The work of a judge who has been elected to the position of the court president shall be evaluated according to the evaluation criteria for judges, if he performs the function of a judge, and according to the evaluation criteria for court presidents.

The work of the court president shall be evaluated based on the following criteria: ensuring the independence of judges and the reputation of the court, competence to organize the work of the court, competence to manage the court administration, capacity to ensure the proper and timely operation of the court, ensuring the implementation of the court's rules and procedures, representing the court in relations with other state bodies, organisations and public officials, parties and participants in the proceedings, relations with the public, preparation and analysis of reports on the work of judges and courts, ensuring the implementation of the program for deciding on old cases, ensuring the timely execution of criminal and misdemeanour sanctions, legal and proper financial operations of the court, proper planning and budget proposal for the work of the court, proper HR plan proposal.

## **Indicators of evaluating the work of the court president**

### **Article 21**

Indicators of the criteria for evaluating the work of the court president shall be determined based on reviewing: the report on the work of the court administration, annual schedule of work, substantiated objections to the annual schedule of work, cases of execution of criminal and misdemeanour sanctions, reports on the work of the court, systematization of jobs in accordance with the HR plan and the needs of the court, report on the material and technical conditions in the court, report on the number of judges on professional training and education, report on the implementation of the program for deciding on old cases, information on the work of the court, the court's website, reports of the state auditor and other court audits, registers and cases of submitted complaints, reports on the appointment of defence attorneys, monitoring of the work of court interpreters, court experts and jury judges, notifications and initiatives sent to the High Judicial Council and the Ministry of Justice, register of legal opinions (Article ... of the Rules of Court), keeping public books in accordance with special laws (Article ... of the Rules of Court), catalogue of the court library (Article ... of the Rules of Court).

## **Scope of work of the judge**

### **Article 22**

The scope of work of a judge shall be evaluated based on the number of cases that the judge completes during a month in relation to the expected number of cases that the judge should complete - the monthly norm.

For the purposes of determining the relations between the expected and achieved scope of the judge's work (norm), the cases resolved on the merits shall be considered, while, as for other cases, three cases resolved in another way shall be considered as one resolved on the merits.

The cases resolved on the merits shall be those under Art. ... of the decision of the High Court Council, which determines the content of the report on the judge's work.

If the judge adjudicated in cases of different types, the scope of the judge's work shall be determined by the sum of the achieved percentage for each type of case in relation to the monthly norm in those matters, with the commission evaluating all types of resolved cases that are not covered by this Rulebook and are provided for in the court's rules and procedure and the law.

## **Monthly norm**

### **Article 23**

The monthly norm is the expected number of cases that a judge should complete in a month.

1. 1. In the basic court:
  - criminal K – 14;
  - criminal panel outside the main trial Kv, parole cases Kuo – 50;
  - litigation P – 20;
  - labour disputes P1 – 18;
  - family disputes P2 – 25;
  - non-litigation proceedings P1 and P2 – 27;
  - RZ – 150;
  - probate – 100;
  - executive I – 50;
  - Iv – 500;
  - Ipv and – 80;
  - Ipv iv – 100.
2. In the higher court:
  - criminal K – 4;
  - Kž, Kž1 and Kž2 – 30;

- criminal panel outside the main trial Kv, parole cases Kuo, pardon cases Kp, cases of extradition of defendants and transfer of convicted Kre – 50;
  - preparatory and juvenile proceedings Kim and Km – 10;
  - first instance litigation P, P1, P2 – 8;
  - second instance litigation Gž, Gž1 and Gž2, GžI, Gžr, RGž – 40;
  - rehabilitation Reh, protection of the right to a trial within a reasonable time R4p, R4i, R4k, R4r – 14.
3. In the appellate court:
    - second instance cases Kž1 – 10;
    - Kžm, Kžm1 and Kžm2 – 15;
    - second instance criminal cases Kž2 – 20;
    - second instance civil cases Gž and Gž3 – 23;
    - second instance civil cases Gž1 and Gž2 – 25;
    - rehabilitation Reh ž – 12.
  4. In the commercial court:
    - litigation P, P1 and P2 – 20;
    - economic offenses Pk, Pki and Pkr – 25;
    - bankruptcy St – 2;
    - enforceable and non-litigation cases I, Iv, Ipv (I), Ipv (Iv), R, Fi– 180.
  5. In the Commercial Appellate Court:
    - in the second instance proceedings Pž and Pvž – 25;
    - economic offenses Pkž – 25.
  6. In the misdemeanour court:
    - PR cases (traffic, public order and peace, security, other) – 60;
    - PR1 cases (customs, public budget, foreign exchange, tax, inspections, information and information of public importance) – 30
    - PRM courses (juveniles) – 30;
    - IPR cases – 100;
    - IPR1, IPR2, IPR3 – 150;
    - IPRV cases – 50;
    - PRPOM cases – 150;
    - R40P – trial within a reasonable time cases – 60.
  7. In the Misdemeanour Appellate Court:
    - Pru – 40;
    - Prž cases – 40;
    - Pržm – 40.
  8. In the Administrative Court:
    - U, Ui, Up, Ur, Už, Uo, Uv and Uip – 25.

## **Article 24**

The monthly norm shall be evaluated by grades:

- if the judge attained over 20% and more of the norm - "extremely successful";
- if the judge attained the monthly norm, or up to 20% over the monthly norm - "successful";
- if the judge attained up to 20% below the monthly norm – "satisfactory";
- if the judge attained more than 20% below the monthly norm – "not satisfactory".

If the judge cannot achieve the monthly norm due to an insufficient number of current cases, the commission shall evaluate the total number of resolved cases in relation to the total number of current cases as follows:

- if he completed more than 80% of the cases out of the total number of current cases - with the grade "extremely successful";
- if he completed 65% to 80% of the cases out of the total number of current cases - with the grade "successful";
- if he completed 50% to 65% of the cases out of the total number of current cases - with the grade "satisfactory";
- if he completed less than 50% of the cases out of the total number of current - with the grade "not satisfactory".

When evaluating the performance of judges from paragraph 2 of this Article, the commission will consider the number and complexity of cases.

## **Reduction of the norm**

### **Article 25**

The norm shall be reduced by 30% for the court presidents in courts with up to 15 judges, the norm shall be reduced by 70% in courts with 16 to 30 judges, and the norm shall not be binding for the court presidents in courts with more than 30 judges.

The norm shall be reduced by 20% for the deputy president of the court, the president of the court department, the managers of court practice, the president of the panel in the second instance proceedings and the supervising judge for the training of judicial assistants and interns in the court.

The norm shall be reduced by 30% for the members and deputies of the commission for evaluating the performance of judges and court presidents, for the duration of the evaluation procedure.

The norm shall be reduced by 30% for judges, members and deputy members of disciplinary bodies for determining the disciplinary responsibility of judges and

court presidents for disciplinary offenses and judges, members of the Ethics Committee of the High Court Council.

The norm may be reduced for a judge or court president on other grounds, in accordance with law, based on the decision of the High Court Council, given that the total reduction of the norm shall be realized on the basis of the most favourable one for the judge or the court president, if the judge or the court president has the right to reduction on several grounds.

### **Article 26**

The High Judicial Council shall decide on the initiation of the evaluation procedure of the work of judges and court presidents, and determine for each court the date when the evaluation procedure begins and the date of completion of the evaluation procedure, the seat of the court where the evaluation is carried out, and the composition of the commission for evaluating the performance of judges and court presidents (hereinafter: the Commission).

The High Judicial Council shall choose judges and presidents of courts whose work shall be reviewed in that year by January 31 of the current year.

The High Judicial Council shall deliver to the judge or the presidents of the court whose work is being evaluated the decision on start of the evaluation procedure by February 15 of the current year.

## **Performance evaluation commission**

### **Article 27**

The High Judicial Council shall announce a public call for the appointment of members of the commission.

An appointed member of the Commission may be a judge who has been in the office for at least ten years, who has been evaluated with the highest grade during the last evaluation of his work and who has not been disciplinary sanctioned.

The Commission shall consist of three members from the ranks of the judges of the court of the same local jurisdiction as the jurisdiction of the court in which the evaluated judge or court president performs the function, whereby the judge of the court of a higher level shall evaluate the work of the judge and the court president of a lower level. When appointing members of the Commission, the Council shall ensure that the Commission includes judges who work in various judicial areas.

The Commission shall consist of a president and two members, whose deputies shall be appointed by the High Court Council. The deputy presidents and members of the Commission shall substitute the presidents, or the members of the



Commission in case of their absence and shall have the same rights and responsibilities as the members of the Commission they substitute.

The president of the Commission shall be elected by the members of the commission.

The Commission shall be independent and impartial.

The mandate of the members of the Commission shall be three years and may be renewed.

The Commission for evaluating the performance of judges and presidents of basic courts shall consist of two judges of the higher court and one judge of the appellate court.

### **Article 28**

The Commission for evaluating the performance of judges and presidents of higher courts shall consist of two judges of the appellate court and one judge of the Supreme Court.

The Commission for evaluating the performance of judges and presidents of appellate courts shall consist of three judges of the Supreme Court.

The Commission for evaluation of judges and presidents of the misdemeanour court shall consist of three judges of the Misdemeanour Appellate Court from the department competent for the area of the misdemeanour court.

The Commission for evaluation of judges and presidents of commercial courts shall consist of three judges of the Commercial Appellate Court from the department competent for the area of the appellate court.

### **Article 29**

Members of the Commission for evaluating the performance of judges and their deputies shall complete training for performance evaluation of judges and court presidents.

The training program shall be determined by the High Judicial Council and implemented by the Judicial Academy, within two months from the decision on the establishment of the Commission.

### **Article 30**

Administrative and technical assistance to the Commission shall be provided by the court where the Commission performs the evaluation. Administrative assistance shall refer to the collection of evaluation materials prescribed by this Rulebook.

The Commission shall have a secretary, who is appointed by the High Judicial Council from among the staff of the administrative office of the High Court Council.

A request for the exemption of the president, member and deputy member of the Commission may be submitted by the president, or a member and deputy member of the Commission, the judge and court president whose work is being evaluated for the reasons prescribed by the Rules of Procedure of the High Court Council.

The request for exemption shall be decided by the High Court Council, in accordance with the provisions of the Rules of Procedure of the High Court Council.

### **Article 31**

The Commission shall appoint a member of the Commission - a rapporteur for each judge and court president, who shall interview the evaluated judge and court president and who shall attend the hearings and sessions of the court panels during the evaluation process.

The member of the Commission - the reporter shall schedule an interview with the evaluated judge and the court president within ten days from the delivery of the decision on the start of the evaluation procedure of the performance of judges and court presidents to the evaluated judge or the court president.

## **Evaluation procedure**

### **Article 32**

The evaluation procedure shall begin with an interview with the judge or the president of the court whose work is being evaluated, which shall be conducted by the Commission member - reporter in a court on the territory of the court where the evaluated judge or court president performs the function.

In the interview, the evaluated judge and the court president shall present a self-assessment of their work for the period of the evaluation and indicate the circumstances they deem significant for the evaluation of their performance.

During the interview, the evaluated judge, together with the member of the Commission - the rapporteur, shall designate three cases that have been legally concluded in the last two years that have not been considered before the immediately higher court and three cases that have been legally concluded in the last two years that have been challenged by a legal remedy, of which at least in one case, the decision has been amended or revoked, and which shall be used in the evaluation procedure.

During the interview, the evaluated judge and the court president shall submit certificates and other sources of data that are not entered in the personal record of the judge and in other records.

During the interview, the member of the Commission - the rapporteur and the evaluated judge shall jointly determine the day when the member of the commission - the rapporteur shall attend the hearing or the session of the judicial panel of the judge whose performance is being evaluated.

The member of the Commission - the rapporteur shall prepare minutes of the first interview, which shall be signed by the Commission member - rapporteur and the judge, or the president of the court whose performance is being evaluated.

The rapporteur of the Commission shall attend the hearing or the court panel of the judge whose work is being evaluated and, on that occasion, record his observations, which he shall communicate to the Commission.

### **Article 33**

The president of the court where the evaluated judge performs judicial functions shall submit, at the request of the Commission, the material for the evaluation within five days, and allow the member of the Commission - rapporteur to attend the hearings and sessions of the judicial panel of the judge whose performance is being evaluated.

Statistical data on the work of the judges and the court presidents and data from the records for the entire evaluation period shall be submitted to the Commission.

### **Article 34**

After the interview, the Commission shall determine, using the method of a random sample, five legally binding judgments or decisions that correspond to the judgment that was made in the regular proceedings by the evaluated judge, and which were challenged by a legal remedy, of which three decisions were amended or revoked, and which shall be used in evaluation procedure.

### **Article 35**

The Commission shall prepare an evaluation decision proposal within 60 days from the commencement day of the evaluation procedure for each judge and court president whose performance is evaluated.

The Commission shall make an assessment and prepare the evaluation decision proposal based on the collected data and the first interview with the judge.

The Commission shall perform evaluations according to all criteria individually for the entire evaluation period, using the grade for the judge: "excellently performs the function of judge", "successfully performs the function of

judge", "satisfactorily performs the function of judge", "unsatisfactorily performs the function of judge" and using the grade for the court president: "excellently performs the function of court president", "successfully performs the function of court president", "satisfactorily performs the function the court president", "unsatisfactorily performs the function the court president".

### **Article 36**

A judge or a president of the court may be evaluated with a grade "unsatisfactorily performs the function of judge" or "unsatisfactorily performs the function of court president" if he has been given that grade according to two or more criteria.

A judge or a court president may be evaluated with a grade "excellently performs the function of judge" or "excellently performs the function of court president" if he has been given that grade according to five or more criteria.

The evaluation decision proposal of a judge, or a court president, shall also contain a recommendation to the High Judicial Council to refer the judge to mandatory training in order to improve knowledge and skills in terms of the criterion for which the judge has been given the grade "satisfactorily performs the function of judge", "satisfactorily performs the function of court president" or "unsatisfactorily performs the function of judge" and "unsatisfactorily performs the function of court president".

### **Article 37**

The Commission shall submit the evaluation proposal to the judge or the president of the court whose work is evaluated within seven days from the date of the evaluation proposal and allow them to see the materials that were used in the evaluation procedure.

The Commission shall have an interview with the evaluated judge or the court president within seven days from the date of submission of the evaluation proposal if the evaluated judge and the court president submits a written request for an interview with the Commission within three days from the day of receipt of the evaluation proposal.

In the interview, the evaluated judge and court president may object to the evaluation proposal, the material used in the evaluation procedure and additionally explain the circumstances based on which the evaluation was carried out, which shall be entered in the record signed by the Commission and the evaluated judge, or the court president.

The Commission shall make a written report of the evaluation decision and submit it to the High Judicial Council and the evaluated judge, or the court president within seven days from the day of the interview.

### **Article 38**

The evaluation decision shall be made based on a comprehensive analysis and assessment of the competencies and performance results of the judge, or court president, according to the criteria and indicators prescribed by this Rulebook.

The decision on the judge's, or court president' performance evaluation must be explained.

### **Performance evaluation of the judge or the court president**

#### **Article 39**

The performance of a judge shall be evaluated with the grade: "excellently performs the function of judge", "successfully performs the function of judge", "satisfactorily performs the function of judge" or "unsatisfactorily performs the function of judge".

The performance of a court president shall be evaluated with the grade: "excellently performs the function of court president ", "successfully performs the function of court president ", "satisfactorily performs the function of court president" or "unsatisfactorily performs the function of court president".

#### **Article 40**

The evaluated judge or court president may file an appeal with the High Judicial Council against the decision of the Commission on the performance evaluating of the judge and the court president, within 15 days from the date of delivery of the Commission's decision.

The High Judicial Council shall decide within 15 days from the date of filing the appeal.

In the process of deciding on the appeal, the High Judicial Council may reject the appeal as untimely or inadmissible, reject the appeal as unfounded, or accept the appeal and amend the decision of the Commission on performance evaluation of the judge or the court president, but not to the detriment of the evaluated judge or the court president.

An administrative appeal may be initiated against the decision that the High Judicial Council made following the appeal against the evaluation Commission's decision.

#### **Article 41**

The decision on the performance evaluation of a judge, or a court president shall be final if no appeal has been filed against the Commission's decision to the

High Judicial Council or no administrative dispute has been initiated against the decision of the High Judicial Council upon the appeal.

The final decision on the performance evaluation of a judge or a court president shall be the basis for the election of the judge and the court president.

The final decision on the performance evaluation of a judge, or a court president shall be the basis for referring the judge to mandatory training in order to eliminate the shortcomings in the work of the judge observed during the evaluation.

The final decision on the performance evaluation of a judge or a court president shall be entered in the personal record of the judge or the court president.

The final performance evaluation of a court president "unsatisfactorily performs the function of court president" shall be the basis for the dismissal of the court president in accordance with law.

## **Final provisions**

### **Article 42**

The Rulebook on Criteria, Standards, Procedures and Bodies for Performance Evaluation of Judges and Presidents of Courts ("Official Gazette of the RS", No. 8/12014, 142/2014, 41/2015 and 7/2016) shall cease to be valid on the day of the start of application of this Rulebook.

### **Article 43**

This Rulebook shall enter into force on the eighth day from the date of its publication in "Official Gazette of the Republic of Serbia" and shall be applied as of.....