

Appendix No. 1 to Order No. 3-108/23.11.2016 of the chief inspector to ISJC

**INTERNAL RULES OF THE PROCEDURE FOR PROPOSALS FOR
INSTIGATING DISCIPLINARY PROCEEDINGS MADE BY THE
INSPECTORATE TO THE SUPREME JUDICIAL COUNCIL**

Art. 1. These rules regulate the decision-making process by the Inspectorate to the Supreme Judicial Council (SJC) for proposing to instigate disciplinary proceedings for imposing disciplinary sanction on a judge, public prosecutor, investigator, administrative head or deputy administrative head (the Proposal).

Art. 2. Reasons for making a proposal are the objective findings and results of the checks of courts, public prosecution offices and investigation departments, or of a particular judge, public prosecutor or investigator, administrative head or deputy administrative head upon sufficient evidence showing a committed disciplinary violation under art. 307 Judiciary System Act (JSA).

Art. 3. The action and/or omission constituting guilty failure to perform the official duties pursuant to art. 307 JSA shall be established by the act of findings of a completed check or by the report under art.175 of JSA.

Art. 4. (1) Within two weeks as of the finalization of the act for the findings of a completed check, the inspector who signed it shall report to the Inspectorate the cases of established violations, for which no proposal to seek disciplinary liability is proposed.

(2) ISJC may make a decision to draft a proposal.

(3) When the report for the check prepared pursuant to chapter IX, section I "b" JSA is submitted for discussion with an opinion to terminate the check due to lack of sufficient evidence, the Inspectorate may decide to draft a proposal.

(4) The Inspectorate shall submit the draft proposal under para. 2 and para. 3 within two weeks as of the date of the decision.

Art. 5 (1) The team conducting the check shall prepare a draft proposal, when the act for findings or the report for completed check identify sufficient evidence that a judge, public prosecutor, investigator, administrative head or a deputy of administrative head has committed a disciplinary violation pursuant to art. 307 JSA;

(2) No draft proposal shall be made when:

1. The individual has died;

2. The individual is dismissed from office;

3. A disciplinary action has been imposed on the individual;

4. The deadlines for instigating disciplinary proceedings under art. 310 JSA have expired.

(3) The draft proposal shall be signed by the inspector who completed the check.

(4) A proposal cannot be made with recommendations in the act for findings of the completed check, or a signal under art. 54, para. 1, item 5 of JSA.

Art. 6. (1) The draft proposal shall be submitted for discussion to the Inspectorate:

1. Within one month as of the date on which the act for the outcomes of the check became final;
2. With the report for the outcomes of the check under chapter IX, section I "b" JSA.

(2) The draft proposal under the preceding paragraph shall be submitted by the inspector signing the act for the outcomes or the report for the completed check.

Art. 7. (1) The Inspectorate at the SJC shall consider the draft proposal. Changes can be made thereto.

(2) The proposal will be deemed adopted if supported by more than half of the Inspectorate's members.

Art. 8. (1) The proposal for instigating a disciplinary proceeding for imposing a disciplinary action shall contain:

1. an indication of the body under art. 311 JSA to which the proposal is addressed;
2. Three names and position of the judge, public prosecutor, investigator, administrative head or of the deputy administrative head it refers to;
3. Indication of the judiciary body by which the individual is currently working for, and the judiciary body where he/she worked during the period when the violations were committed;
4. The period during which the violation was committed and the time when it was found out;
5. Brief description of the material features of the established action and/ or omission that qualify it as a disciplinary violation pursuant to art. 307 JSA. If several actions and/or omissions have been established, they shall be grouped per types of disciplinary violations and listed chronologically;
6. The reasons for the committed violation, existence of health or other personal problems;
7. The period during which the judge, public prosecutor, investigator, administrative head or deputy administrative head has been in legally established leave;
8. Information about the disciplinary proceedings or imposed disciplinary action for the same disciplinary violation;
9. Data about appeal of a denial to instigate disciplinary proceedings pursuant to art. 310, para. 5, item 2 JSA for the same violation;

10. Information about the instigated criminal proceedings pursuant to art. 310, para. 4 JSA for the same violation;

11. Information about the individual workload of the judge, public prosecutor and investigator, administrative head and deputy administrative head, and information about his/her professional activity. If it has been established that a judge is exposed to high workload, or extremely high workload, then the organizational, staffing and other measures undertaken by the relevant court and the Supreme Judicial Council should also be specified;

12. The form of the guilt;

13. Objective possibility to perform the respective official duty without admitting the established violation;

14. Information about involvement in the performance of other official tasks outside the main activity of the respective judiciary body;

15. Information about the objective condition of the respective judiciary body;

16. Assessment of the created organization for establishing even workload of the judges, public prosecutors or investigators at the checked judiciary body, including establishing the reasons and measures undertaken to overcome the uneven workload if such has been established.

(2) At the discretion of the Inspectorate the proposal may also include other matters of significance to clarify the factual circumstances related to the committed disciplinary violation.

(3) In case of violation established pursuant to chapter IX, section I "b" JSA, the proposal may not include the facts and circumstances under items 7, 11, 13, 14, 15 and 16 of the preceding paragraph if these are irrelevant to its clarification.

(4) When a proposal is made about the about the about the type and size of the sanction to be imposed, the severity of violation, the form of the guilt, the circumstances in which it was committed and the behavior of the violator shall be taken into consideration.

(5) Demands for evidence can be made with the proposal:

Art. 9. The information about the professional activity of the judge, the public prosecutor or the investigator shall include:

1. Personal workload with quantitative indicators;

2. Factual and legal complexity of the heard cases during the checked period;

3. Quality of the issued judicial acts as per the result of the instance control;

4. Panel participation, preparation and administration of cases, on-duties /if any/, workload of the hearings' schedule;

5. Incentives and/or sanctions, application of the measure under art. 327 JSA;

6. Actions to overcome the established violations.

Art. 10. The objective status of the respective judiciary body includes information about:

1. total and individual workload of judges, public prosecutors or investigators for the respective judiciary body;

2. total and individual workload compared against the average for judiciary bodies of the same type.

Art. 11. (1) The proposal for instigating disciplinary proceedings to a disciplinary action shall be sent to the competent body under art. 311 JSA with a cover letter signed by the general inspector.

(2) When a proposal as to the type and size of the sanction to be imposed is not made, he/she shall send to the respective college of SJC.

Art. 12. The materials from the check supporting the facts and circumstances indicated thereto shall be enclosed to the proposal.

ADDITIONAL AND FINAL PROVISIONS

§1. „High workload” and „extremely high workload” shall be interpreted in accordance with their contents according to the Rules of evaluation of judges’ workload as adopted by SJC.

§2. „Total and individual workload of judges, public prosecutors and investigators” and „total and individual workload average for the judiciary bodies” shall be interpreted in accordance with their contents according to the Rules of evaluation of judges’ workload adopted by SJC, and to the Rules for measuring the workload of public prosecution offices and the individual workload of public prosecutor and investigator, adopted with a decision of SJC, respectively.

§3. The provisions related to the proposal for actions and/or omissions committed under conflict of interests, and for actions or omissions, respectively, that are contrary to the principles of integrity, damage the reputation of judiciary or are related to the violation of autonomy of judges, public prosecutors and investigators shall become effective after 1.01.2017.