

REGULATION
CONCERNING REVIEW OF RECLUSION REQUESTS FROM THE ADJUDICATION
OF CASES UNDER THE APPEAL CHAMBER’S DISCIPLINARY JURISDICTION

Approved as per Decision No.24 dated 11.06.2018 of the Meeting of Judges

Based on Articles 179, paragraph 7 and 179/b, paragraph 5 of the Constitution of the Republic of Albania; Article 5, paragraph 3, item “b” of Law no. 84/2016 “On the transitory re-evaluation of judges and prosecutors in the Republic of Albania;” Articles 13, item “d”, 32 paragraph 1 and 36 of Law no. 8577, date 10.02.2000 “On the organization and functioning of the Constitutional Court of the Republic of Albania,” with amendments, the Meeting of Judges,

DECIDED:

Article 1

Scope

This regulation establishes the procedure to review requests from Appeal Chamber (AC) judges to reclude themselves from the adjudication of a given case under the disciplinary jurisdiction in accordance with provisions of Article 5, paragraph 3, item “b” of Law no. 84/2016 “On the transitory re-evaluation of judges and prosecutors in the Republic of Albania.”

Article 2

Principles

This Regulation abides by the principles of legality, impartiality, efficiency and objectivity.

Article 3

Reclusion requests

1. The AC Judge who becomes aware that his position with regard to a certain case falls under one of the instances described by Article 36 of Law no. 8577, date 10.02.2000 “On the organization and functioning of the Constitutional Court of the Republic of Albania,” as amended shall, within a reasonable time limit, request reclusion from the adjudication of the relevant case which is filed for review under the AC’s disciplinary jurisdiction.
2. Following registration, the request is presented to the AC President. Should the request be made by the AC President, it shall be presented to the oldest judge in age, who takes over the powers of the AC President in the review of this request.
3. The reclusion request shall explain the reasons and point out the facts and circumstances leading to such request. Any available evidence/documentary proof should be attached to the reclusion request.

Article 4
Review of the reclusion request

1. Immediately after receipt of the reclusion request, the AC President convenes the Meeting of Judges to review the request, at the earliest possible date and time, with the attendance of a necessary quorum of no less than $\frac{3}{4}$ of all the AC judges (5 judges).
2. The applicant judge shall not participate in the Meeting of Judges set to review his/her request to reclude himself/herself.
3. A decision on the reclusion request shall be made by a majority vote. In no case shall abstention be allowed. At the end of the review meeting, the AC president shall call a one-time vote of all members, counting votes in favor and against the request. The reasoned decision of the Meeting of Judges shall be written within three days from the day of its making by the AC President or the oldest judge in age, should this be the case. The reclusion decision shall form part of the relevant case file. Should the AC President hold a minority opinion, the decision is written by the oldest of the judges holding the majority opinion.
4. Should the reclusion applicant be a member of the panel for the preliminary review of the case or should he/she happen to be the case's rapporteur, and his/her request is granted by the Meeting of Judges, the AC President shall take immediate steps to cast a substitution lot.

Article 5
Entry into force and amendment of the Regulation

1. This regulation shall enter into force upon its approval by the Meeting of Judges.
2. This Regulation may be amended by decision of the Meeting of Judges.