

Rules for secondment of judges, public prosecutors and investigators
(established with decision of the Supreme Judicial Council (SJC) according
Record N 25 from 27.06.2013, amended and supplemented according to Record
N 31 from 25.07.2013)

The secondment of the magistrates as an activity is included in the authority of the administrative heads of the bodies of the judicial bodies of different levels and is regulated by Art. 81, 87, 94, 100, 100e, 107, 107b, 115, 123, 147 and 227 of the Judiciary System Act. The Supreme Judicial Council offers the following rules to the law worthy individuals with the purpose to make equal the jurisprudence for secondment of judges, public prosecutors and investigators.

I. GENERAL PROVISIONS

1. These rules lay down the conditions, the order and the standards for secondment of judges, public prosecutors and investigators from one judicial body to another.
2. The secondment, within the meaning of these rules, is temporary and exceptionally discharge of duties from a judge, a public prosecutor and an investigator, in a judicial body, different from the one he/she is certified.

II. CONDITIONS, ORDER AND STANDARDS FOR SECONDMENT

- 3.1. A judge, a public prosecutor or an investigator can be seconded according to the rules layed down in Art. 227 of the Judiciary System Act:
 - a) on a vacant position until a competition is held and the inauguration of the chosen candidate;
 - b) on a position whose occupant is in a long-term (over 2 months) leave – until the returning of the occupant, or when the occupant is seconded for a long-term period in/by an international institution;
 - c) in all the cases laid down by the law
- 3.2. The administrative heads of the judicial bodies cannot be seconded for discharge of their duties in another bodies.
4. For the secondment of a judge, a public prosecutor or an investigator it is demanded an opinion from the administrative head of the body in which he/she is working. The opinion is accompanied by a verification that presents the workload of the body as a whole and of the magistrates working in it and data how the secondment would reflect on the organization of the work process at this body.
5. The administrative head who is in charge of the secondment of magistrates issues an order that contains:
 - a) the name of the judicial body, the position and the names of the person who issues the order;
 - b) the full name and the position of the commissioned person;
 - c) the position and the judicial body where the person is seconded;
 - d) the factual and legal grounds for the secondment;
 - e) term of the secondment;
 - e) signature of the person issuing the order and a stamp of the judicial body.

6. In the motives of the order for secondment the administrative head must include the workload of the judicial body in which the magistrate is seconded and the factual grounds for the secondment of this particular magistrate, considering the following standards while choosing him/her:

- the duration of the years of office in the appropriate area in which he/she is seconded;
- high professionalism during the discharge of duties
- personal motives.

7. The order for secondment could be changed or cancelled only by a new written order.

8. The secondment is suspended:

- a) when the reason for secondment is cancelled;
- b) with the expiration date of the secondment;
- c) with a written demand from the seconded magistrate after he/she makes all the documents about the cases and the claim files which are given to him/her, and new cases and claim files cannot be given to him/her.

9. After the suspension of the secondment the judge, the public prosecutor or the investigator returns to his/her previous position. He/she must prepare all the documents concerning the cases and the claim files that are given to him/her in the term determined by law.

10. Procedures for cases that require the same plenary session are still heard by the same magistrate until their closure.

III. REGISTER OF THE SECONDMENT

11. SJC manages, supports and updates the Register of the secondment of judges, public prosecutors and investigators, consisted of Part I “Register of the seconded judges, public prosecutors and investigators” and Part II “Register of the positions to which judges, public prosecutors and investigators are about to be seconded”.

12. Immediately after the order for commission is issued the administrative head sends a copy of it to the SJC so that it could be recorded in Part I of the Register.

13. In Part I “Register of the seconded judges, public prosecutors and investigators” are recorded:

- a) the three names of the seconded magistrate;
- b) judicial body from which he/she is seconded;
- c) number of the Order for secondment;
- d) judicial body in which the magistrate is seconded;
- e) term of the secondment (from...to);
- f) the duration of the secondment in months;
- g) motives;
- e) remarks.

14. In Part II “Register of the positions to which judges, public prosecutors and investigators are about to be seconded” could be written data about the positions where a magistrate must be seconded. The record is made with a decision of the administrative head with authority to second and is accompanied by a message that must contain:

- a) motives for the level of workload of the judicial body and other circumstances leading to the secondment;
 - b) an offer to the magistrates to express their desire for secondment with an explanation of standards and conditions which they have to cover;
 - c) a dead-line for sending in an applications for secondment from the interested magistrates.
- In the register a reference to the message of the administrative head is provided.

15. Information about the changes in the data and the circumstances according to the previous Article is kept and saved in the register.

16. The information in the register is public and is published on the web-site of SJC.

17. The management of the register is assigned to the Committee for analysis and accountancy the level of workload of the Judiciary's bodies of SJC.

IV. FINAL PROVISIONS

§.1. In term of a month after the end of the competition the administrative heads of the Judiciary's bodies have to align of legislation existing commissions with these rules.