

**Annex I**  
**(TP ECU-PACA-10/2012)**



REPUBLIC OF ALBANIA

HIGH INSPECTORATE FOR THE  
DECLARATION AND AUDIT OF ASSETS

No. \_\_\_\_\_ Prot.



REPUBLIC OF ALBANIA

HIGH COUNCIL OF JUSTICE

No. \_\_\_\_\_ Prot

**MEMORANDUM OF COOPERATION**

With the aim of preventing illicit enrichment of judges and minimising conflict of interest in the performance of judicial function;

With the aim of effectively detecting illicit enrichment and conflict of interests through the declaration and auditing of the judges' assets and interests;

With a view to enhancing and strengthening the cooperation of the High Inspectorate for the Declaration and Auditing of Assets (*HIDAA*) and the High Council of Justice (*HCJ*) in the process of auditing the assets' declarations of judges;

With a view to enhancing the effectiveness of the auditing of the judges' declarations,

HIDAA and HCJ agree on the present Memorandum of Cooperation.

**Article 1**  
***General Provisions***

In pursuance of the Joint Statement of 13 October 2010 and in accordance with the respective legal mandates HIDAA and HCJ hereby commit to upgrade their cooperation in the process of auditing the judges' declarations of assets and

interests through the implementation of the present Memorandum of Cooperation with a view to ensuring effective deterrence of illicit enrichment of judges.

## **Article 2**

### ***Statutory Base of the Memorandum***

HIDAA and HCJ enter this Memorandum of Cooperation based on article 42 of Law No. 9367, of 7 April 2005 "On the Prevention of Conflict of Interest in the Exercise of Public Functions' (*as amended*), henceforth the Conflict of Interests Law, articles 17 and 26 of Law No. 9049, of 10/04/2003 "On the Declaration and Audit of Assets, Financial Obligations of Elected Persons and Certain Public Officials (*as amended*), henceforth the Assets Declaration Law, articles 1 and 16/1/e of the Law No. 8811, of 17/05/2001 "On the Organization and Functioning of the High Council of Justice (*as amended*), henceforth the HCJ Law, and articles 23 and 27 of the Decision No. 195/2/a of the High Council of Justice, dated 05/07/2006 "On the Organization and Functioning of the Inspectorate of the High Council of Justice (*as amended*), henceforth the Judicial Inspectorate Regulation.

## **Article 3**

### ***Sub-Registry of Complaints and Information Relevant to the Declarations of Judges' Assets and Interests***

The HCJ shall establish and keep a sub-registry of complaints against judges as well as any other information which alleges or might indicate the existence of the following interests/assets of judges:

- Undeclared assets and financial obligations;
- Undeclared private legal relationships;
- Undeclared engagements and associations (profitable or non profitable);
- Information on receipt of gifts, promises, favours or any preferential treatment by the judges;
- Information on prior engagements/associations from which the aforementioned interests derive;
- Information on the above interests for persons connected to judges;
- Information on the indirect (concealed) possession of the above interests by judges and/or persons connected to them.
- Any other information that is deemed relevant for the purposes of auditing the judges assets and interests.

HIDAA shall have unimpeded access to the sub registry of complaints and shall continuously advise HCJ on the categories of information that should be collected and stored in the sub registry by HCJ as well as on the format of the sub-registry.

HIDAA shall provide to the HCJ relevant information on the judges (to be inserted in the sub registry) arising from the information (denunciations) received via its toll free number and its email address [unedenoncoj@hidaa.gov.al](mailto:unedenoncoj@hidaa.gov.al).

#### **Article 4**

##### ***Active seeking of Information by HCJ and HIDAA***

In accordance with article 10 of Conflict of Interest Law and article 16/1/e of the HCJ Law, HIDAA and HCJ shall solicit information on the matters/issues provided in article 2 from the parties to judicial proceedings, all other court users, the media, state agencies that manage public registries and private actors that manage private registries.

#### **Article 5**

##### ***Active seeking of information from the parties and other court users***

HCJ and HIDAA shall actively inform parties to judicial proceedings and other court users on the possibilities and procedures available by which such parties and users may submit a complaint or information to HCJ or HIDAA concerning the assets and interests of judges (*in addition to those that are raised and treated by a request for the recusal of the judge*).

Within 3 months from the day in which the present Memorandum comes into effect, the two agencies shall compile, publish and distribute in all court houses an informative brochure to that effect.

HCJ and HIDAA shall revise the brochure and (if needed) release a revised version of it by the end of the second month of each calendar year.

HCJ and HIDAA shall establish and duly advertise in the court houses and in the media toll free numbers and electronic addresses to facilitate the inflow of complaints/information on the judges' interests provided in article 2 of this Memorandum.

## **Article 6**

### ***Active seeking of information from the media***

HIDAA and HCJ shall jointly analyze and follow up any information by the media on the alleged interests of judges provided in article 2 of this Memorandum.

The contact points of the signatories shall perform a preliminary investigation of the admissibility of the information from the media in accordance with article 7/b of this Memorandum.

Following the preliminary verification of the information, the contact points shall compile a joint memorandum to the Chief Inspector of HIDAA and the Deputy Chairman of the HCJ with a proposal to dismiss the issue or proceed with a full audit of the assets declaration of the concerned judge by HIDAA.

The Chief Inspector of HIDAA shall make a decision on the proposal of the contact points after consulting the Deputy Chairman of the HCJ.

## **Article 7**

### ***Active seeking of information from the state agencies***

Besides the verification and the full audits of the judges' declarations that are performed in the course of the overall auditing of assets of public officials and the activities performed in accordance with this Memorandum, before the end of each calendar year, HIDAA shall compile a report with information and findings on judges' interests that it has secured in the framework of implementation of the Memoranda of Cooperation it has signed with the following state agencies:

- The General Department for the Prevention of Money Laundering;
- The General Tax Department;
- The General Customs Department;
- The Immovable Property Registration Office;
- The Agency for the Legalization and Urban Integration of Informal Zones and Properties;
- The People's Advocate;
- The General Department of Transport Services;
- The Ministry of Foreign Affairs;
- The State Advocate's Office;
- The Public Procurment Agency; and
- The General Department of Police.

HIDAA's report shall be discussed in a joint meeting of the two agencies and shall serve as a basis for the determination of future policies and actions.

### **Article 8**

#### ***Preliminary Investigation of Admissibility of Complaints and Information by HCJ***

- a. In pursuance of article 16/1/e of the HCJ Law and article 27 of the Judicial Inspectorate Regulation, the Chief Inspector of the HCJ shall perform a preliminary verification of the admissibility of complaints received in accordance with article 2 of this Memorandum and the information received in accordance with articles 3-6 of this Memorandum.
- b. The verification of admissibility shall include the following tests:
  - The complaint/information has come from a legal source as defined by articles 8 and 9 of the CoI law and article 16 of the HCJ Law;
  - The complaint/information concerns one of the assets/interests provided in article 2 of this MoU;
  - The complaint/information is *prima facie* reliable;

Following the preliminary verification of the complaint/information, the Chief Inspector shall refer the issue to the Deputy Chairman of the HCJ with a proposal to dismiss the issue or proceed with a full audit of the assets declaration of the concerned judge by HIDAA. d. All proposals suggesting the dismissal of the case shall be submitted to HIDAA for their comments. HIDAA shall provide its comments within 10 working days from the receipt of the respective HCJ communication.

e. Following HIDAA's comments, the Deputy Chairman of the HCJ may overrule the proposal of the Chief Inspector to dismiss the case and refer it for a full audit of the assets declaration of the concerned judge to HIDAA in accordance with article 17/5 of the Conflict of Interests Law.

### **Article 9**

#### ***Full Audit of the Asset Declarations by HIDAA and HCJ***

Whenever the request for a full audit of a judge's declaration is submitted following the procedure described in article 7 of this Memorandum, HIDAA and

HCJ shall set up joint teams of inspectors and perform the audit in accordance with the procedures, conditions and time lines provided in the law on Conflict of Interests and by reference to the work methods and manuals adopted by the Inspector General in accordance with article 25/3 of the Asset Declarations Law.

#### **Article 10**

##### ***Administrative Investigation and Declaration on Request by HIDAA***

When following the full audit of the assets declaration of the concerned judge, the joint team of inspectors concludes that the information is reliable and the declared income of the judge does not justify the judge's assets, the HIDAA Chief Inspector shall decide the effectuation of an administrative investigation on the concerned judge.

HIDAA and HCJ shall set up joint teams of inspectors and perform the administrative investigation in accordance with the procedures, conditions and time lines provided in article 18 of the law on Conflict of Interests, the relevant provisions of the Code of Administrative Procedure and by reference to the work methods and manuals adopted by the Inspector General in accordance with article 25/3 of the Asset Declarations Law.

The General Inspector may also order the declaration and audit of assets of other persons which following the completion of the full audit and/or administrative investigation by HCJ and HIDAA appear to be connected to the judge in accordance with article 7 of the Asset declaration law

#### **Article 11**

##### ***Contact Points and Communication between HIDAA and HCJ***

HCJ hereby designates the Chief Inspector of the HCJ as the contact point in the communication with HIDAA for the purpose of implementing this Memorandum.

HIDAA hereby designates one High Inspector as the contact point in the communication with HCJ for the purpose of implementing this Memorandum.

The decision of the General Inspector of HIDAA to assign one High Inspector as the contact point for the implementation of this Memorandum is made an integral part of the Memorandum.

All communications between HCJ and HIDAA in the framework of the implementation of this Memorandum shall be in writing and signed by the heads of the two agencies.

**Article 12**  
***Final Provisions***

1. This Memorandum shall come into effect on the day it is signed by the two signatories and shall remain in force for an undefined period of time.
2. Any amendment to the present memorandum shall be agreed by the signatories in writing through the exchange of written communications. The written communications shall clarify the time in which the amendments come into effect.
3. Any disagreement concerning the interpretation or implementation of this memorandum shall be resolved amicably.
4. Despite the regulation of paragraph 1 of this article, this Memorandum may be terminated at any time by either signatory following the lapse of a sixty days period from the submission of a written notification to the other signatory.
5. Any amendments to the laws and regulations referred to in article 2 of this Memorandum (Statutory Base of the Memorandum) that affect the content of this Memorandum or the references to the various articles of the statutes shall be reflected in the Memorandum by HIDAA not later than 15 working days from the entry into force of the amendments. The revised Memorandum shall be signed by both parties immediately without further negotiation or discussion.
6. The Memorandum is compiled in 4 (four) original copies, two of which are deposited with HIDAA and the other two with HCJ.

This Memorandum of Cooperation is signed on \_\_\_/\_\_\_/ 2012.

**INSPECTOR GENERAL**

**DEPUTY CHAIRMAN**

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**Adriatik LLALLA**

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**Elvis Çefa**