

Comments on the Final Draft of the Act on Amendments to the Judiciary Act

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American Chamber of Commerce in Croatia *Američka gospodarska komora u Hrvatskoj*

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Comments on the Final Draft of the Act on Amendments to the Judiciary Act

With this document, the American Chamber of Commerce in Croatia (*AmCham*), sets out its position on the Final Draft of the Act on Amendments to the Judiciary Act.

The Final Draft of the Act is generally acceptable, but AmCham deems it necessary to provide suggestions for further improvements.

Article 56 of the Final Draft of the Act / Article 96 of the current Judiciary Act

The Final Draft of the Act on Amendments to the Judiciary Act in Article 56 provides for the amendment to Article 96, paragraph 2 of the current Judiciary Act¹ as follows:

Article 56

In Article 96 paragraph 2, after the words: "High Administrative Court of the Republic of Croatia", a comma is placed and the following words are added: "High Criminal Court of the Republic of Croatia."

At the same time, the Final Draft of the Act does not provide for the amendment of paragraph 1 of Article 96 of the applicable Judiciary Act, which reads:

Article 96

(1) Judges, with the exception of judges of the Supreme Court of the Republic of Croatia, are assessed in the process of appointment to another court and when they are running for the president of the court.

AmCham emphasizes the importance of assessing the judges annually and of devising an adequate system of advancement with competitive salaries within the lower court, which will allow for higher incomes and lead to greater efficiency in work through motivation. This would also enable the retention of quality employees in lower courts, as career advancement would be separated from the transition to a higher court.

Amendment to the Judiciary Act to provide for such a possibility can be the first step towards introducing wider changes within the system.

¹ Official Gazette nos 28/13, 33/15 and 82/15

AmCham therefore proposes the following amendment to Article 56 of the Final Draft of the Act or the wording of Article 96 paragraph 1 of the current Judiciary Act:

(1) Judges, with the exception of judges of the Supreme Court of the Republic of Croatia, are assessed in the process of advancement within the same court, appointment to another court and when they are running for the president of the court.

Article 57

Pursuant to the Final Draft of the Act, Article 97 of the current Judiciary Act is amended and reads as follows:

(1) The Judicial Council shall assess the performance of a judge in line with the following criteria:

- 1. the number of decisions rendered by the judge in relation to the number of decisions the judge was required to render on the basis of the Framework Standards for the Work of Judges, both in total and by types of cases in absolute numbers and percentages,*
- 2. quality of decisions - the number of confirmed, abolished, annulled and amended decisions in relation to the number of decisions in which legal remedies have been declared and the number of decisions in which an infringement of essential procedural requirements has been established in relation to the number of decisions in which legal remedies have been declared,*
- 3. proper performance of judicial duties – respect of deadlines, scheduling hearings, compliance with the order of resolving case, etc.,*
- 4. experience in performing judicial duties,*
- 5. other activities of a judge – participation in the professional training of judges as a lecturer in seminars and workshops, publication of professional and scientific papers in the field of legal sciences, membership in the judicial councils, etc.*

(2) According to all the standards referred to in paragraph 1 of this Article, a judge may achieve a maximum of 150 points, whereby for the standards referred to in paragraph 1, items 1 and 2 of this Article, a maximum of 60 points may be achieved, and for the standards referred to in paragraph 1, item 3, 4 and 5 of this Article, a maximum of 10 points.

(3) The work of a judge who is in the process of appointment to another court shall be assessed by a court's Judicial Council with jurisdiction over the court in which a position of a judge is being filled.

(4) The standards referred to in paragraph 1 of this Article shall be elaborated by the Methodology of assessing the performance of judicial duties.

AmCham deems that participation in professional training (as an attendee) should be a relevant scored criterion for assessing judges for the purpose of advancement.

AmCham proposes the following wording of Article 57, paragraph 1, item 5:

5. other activities of a judge – participation as an attendee in professional training programs, participation in the professional training of judges as a lecturer in seminars and workshops, publication of professional and scientific papers in the field of legal sciences, membership in judicial councils, etc.