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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**ARMENIA**

**DRAFT JUDICIAL CODE**

**CONSTITUTIONAL LAW OF THE REPUBLIC OF ARMENIA  
JUDICIAL CODE OF THE REPUBLIC OF ARMENIA**

**SECTION 1  
FUNDAMENTALS OF ORGANISATION AND FUNCTIONING OF JUDICIARY**

**CHAPTER 1  
GENERAL PROVISIONS**

**Article 1. The judiciary**

1. The judicial power in the Republic of Armenia shall be exercised by independent and impartial courts established by law on the basis of the principle of separation and balance of powers prescribed by the Constitution of the Republic of Armenia (hereinafter referred to as "the Constitution").

**Article 2. Legislation regulating the organisation and functioning of the judiciary**

1. The organisation and functioning of the judiciary shall be regulated by the Constitution, ratified international treaties of the Republic of Armenia and this Constitutional law (hereinafter referred to as "the Code").

**Article 3. Subject matter of this Code**

1. This Code shall regulate relations pertaining to organisation and functioning of the judiciary, except for issues pertaining to organisation and functioning of the Constitutional Court of the Republic of Armenia (hereinafter referred to as "the Constitutional Court").

**Article 4. Judicial system of the Republic of Armenia**

1. In accordance with part 1 of Article 163 of the Constitution of the Republic of Armenia, the Court of Cassation, courts of appeal, courts of first instance of general jurisdiction, as well as the Administrative Court shall operate in the Republic of Armenia.

2. The courts of first instance shall be as follows:

- (1) courts of general jurisdiction;
- (2) Administrative Court.

3. The courts of appeal shall be as follows:

- (1) Criminal Court of Appeal;
- (2) Civil Court of Appeal;
- (3) Administrative Court of Appeal.

4. The Administrative Court is a specialised court.

5. Establishment of extraordinary courts shall be prohibited.

**Article 5. Tasks of court**

1. While administering justice and exercising other powers provided for by law, the court shall ensure protection of the rights and freedoms of a person, provided for by the Constitution, ratified international treaties of the Republic of Armenia and law, the interests of the state and the public.

**Article 6. Judge**

1. Judge shall be a person appointed to the position of a judge of the Court of Cassation, courts of appeal, courts of first instance as prescribed by Constitution and this Code.

2. Chairpersons of the courts and the chambers of the Court of Cassation shall also act as judges and shall exercise all the powers vested in judges.

**Article 7. Scope of court jurisdiction**

1. The issue whether or not any matter is subject to court jurisdiction shall be decided on by the court on the basis of law.

**CHAPTER 2  
PRINCIPLES OF ORGANISATION AND FUNCTIONING OF JUDICIARY**

**Article 8. Exercise of judicial power in accordance with law**

1. Courts shall exercise the judicial power in accordance with the Constitution, ratified international treaties of the Republic of Armenia and law.

**Article 9. Independence and autonomy of the judiciary**

1. While administering justice and exercising other powers provided for by law, courts shall be independent from other bodies of public administration, local self-government bodies, officials, natural and legal persons, and shall function only in accordance with the Constitution and law.

2. Judge shall examine and decide on a case or a matter (hereinafter referred to as "the case") in accordance with the Constitution, ratified international treaties of the Republic of Armenia and law, on the basis of his or her inner conviction based on impartial analysis of the circumstances of a case, taking account of the practice of bodies operating on the basis of international human rights treaties ratified by the Republic of Armenia.

3. While administering justice and exercising other powers provided for by law and thereafter, a judge shall not be accountable to anyone and, inter alia, shall not be obliged to give any explanation.

4. Bodies of public administration and local self-government bodies, officials, natural and legal persons shall respect the independence of the judiciary and abstain from statements or actions which may harm or jeopardise the independence or reputation of the judiciary.

5. While the court administers justice and exercises other powers provided for by law, any interference with its activities or any influence thereon shall be prohibited.

6. Interference with the activities of a court, as well as disrespectful attitude towards the court shall entail liability provided for by law.

7. The Supreme Judicial Council, based on a statement of a judge with regard to the interference with his or her activities or influence thereon in relation to administering justice and exercising other powers provided for by law, where it finds that there is a *prima facie* act constituting an offence, shall be obliged to file a motion to relevant bodies on subjecting the guilty persons to liability.

8. The disposition of matters concerning protection of professional interests of judges and internal functioning of courts shall be reserved to self-government bodies of the judiciary. The self-government bodies shall be deemed to be the General Assembly of Judges of the Republic of Armenia (hereinafter referred to as "the General Assembly") and the Supreme Judicial Council.

#### **Article 10. Right to judicial protection and fair trial**

1. Everyone shall have the right to effective judicial protection of his or her rights and freedoms.

2. Everyone shall have the right to a fair and public hearing of his or her case within a reasonable time period by an independent and impartial court established by law.

3. Everyone shall have the right to exercise his or her right to judicial protection in person as well as through his or her representative or counsel, except for the cases provided for by law.

#### **Article 11. Equality before the law and the court**

1. Everyone shall be equal before the law and the court and shall be equally protected by law.

2. Discrimination by court, while administering justice and exercising other powers provided for by law, on the ground of sex, race, skin colour, ethnic or social origin, genetic features, language, religion, world view, political or other views, belonging to a national minority, property status, birth, disability, age, or other personal or social circumstances shall be prohibited.

#### **Article 12. Publicity of judicial proceedings**

1. Court sessions at courts of the Republic of Armenia shall be open to public, except for the cases provided for by law.

2. Court session shall be recorded as prescribed by law.

3. Final (conclusive) acts and, in cases provided for by law, also other judicial acts of a court shall be subject to promulgation. In case being promulgated during a court session, the concluding part of the judicial act shall be promulgated.

4. The judicial proceedings or a part thereof may, in the cases and under the procedure prescribed by law, be held behind closed doors upon a court decision, for the purpose of protecting the private life of the participants of proceedings, the interests of minors or interests of justice, as well as state security, public order or morals.

5. Everyone shall have the right to become familiar with a completed court case with regard to which a final (conclusive) act has entered into legal force. A person may become familiar with

the part of the judicial proceedings held behind closed doors only based on the decision of the court having rendered the judicial act.

6. Information on the court examining the case, the parties, the merits of the case, schedule of sessions, progress of the case, final (conclusive) judicial acts shall be compulsorily published on the official website of the judiciary of the Republic of Armenia, except for the cases provided for by law. Judicial acts containing data on private life, personal biometric and personal special category data as well as personal data on a child shall be published with such personal data being depersonalised.

7. The procedure for publishing the information referred to in part 6 of this Article and subject to publication shall be defined by the Supreme Judicial Council.

8. Decisions made by the Court of Cassation as a result of examination of a cassation appeal accepted for proceedings shall also be compulsorily published in the Official Journal of the Republic of Armenia.

### **Article 13. Language of procedure**

1. In the Republic of Armenia, the procedure shall be conducted in Armenian.

2. Participants in a case shall have the right to act in court in the language they prefer, if they provide interpretation into Armenian.

3. A court shall provide services of an interpreter, at the expense of state funds, to persons participating in a criminal case and having no command of Armenian.

4. A court shall provide services of an interpreter, at the expense of state funds, to the natural persons participating in administrative and civil cases where they have no command of Armenian and prove that they do not have sufficient means to pay for interpretation.

5. In case necessity to provide services of an interpreter at the expense of state funds arises, an interpreter shall be appointed on the basis of a court decision under the procedure defined by the Supreme Judicial Council. The amount of and the procedure for remuneration of interpreters shall be established by the Government of the Republic of Armenia (hereinafter referred to as "the Government").

### **Article 14. Binding nature of judicial acts**

1. The courts shall render final (conclusive) judicial acts in the name of the Republic of Armenia.

2. Judicial acts entered into legal force shall be binding and, in case of implying execution, they shall be subject to compulsory execution by the bodies of public administration and local self-government bodies, officials thereof, natural and legal persons.

3. Failure to execute a judicial act shall entail liability provided for by law.

4. Where a court derogates from the justifications of a judicial act of the Court of Cassation (including the interpretations of a normative legal act) while examining and deciding on a case, it shall justify its position indicating strong arguments.

5. Judicial acts of courts of foreign states, arbitration awards of foreign states, international arbitration awards, decisions of international courts shall be subject to enforcement in the

territory of the Republic of Armenia in the cases and under the procedure prescribed by law, as well as in accordance with the ratified international treaties of the Republic of Armenia.

#### **Article 15. Appeal against and review of judicial acts**

1. Participants of procedure, in the cases and under the procedure provided for by law, shall have the right for the judicial acts of the courts of first instance to be reviewed under the procedure of appeal, and for the judicial acts of the court of appeal to be reviewed under the procedure of cassation.

2. Judicial acts based on new or newly emerged circumstances, as well as on a fundamental violation of substantive or procedural law, shall be reviewed in the cases and under the procedure provided for by law.

3. In the cases and under the procedure provided for by law, a judicial act may be appealed against by a person not being a participant in a case whose rights and lawful interests are affected by the judicial act, or by a body or an official whose powers the adopted judicial act concerns.

#### **Article 16. Composition of the court**

1. Cases at a court of first instance shall be examined by a single judge, except for the cases provided for by law. The judge examining a case while sitting alone shall function as a court.

2. At the court of appeal, the appeals against a final (conclusive) judicial act shall be examined by a panel of three judges, and appeals against other judicial acts shall be examined by a single judge, except for the cases provided for by law.

3. The Court of Cassation shall decide on accepting a cassation appeal for proceedings by a panel of judges by the majority of at least two thirds of votes of the total number of judges of the respective chamber of the Court of Cassation.

4. The Court of Cassation shall examine the cassation appeals accepted for proceedings by a panel of judges by at least two thirds of the judges of the chamber of the Court of Cassation.

#### **Article 17. Symbols of the judiciary**

1. A judge shall participate in the court session in a gown of an established design, which shall be provided to him or her at the expense of state funds.

2. A judge, except for a judge of the Court of Cassation, shall have a seal bearing the representation of the Coat of Arms of the Republic of Armenia, the names of the court and of the judge, as well as stamps specified by the Supreme Judicial Council.

3. Each chamber of the Court of Cassation shall have a seal bearing the representation of the Coat of Arms of the Republic of Armenia and the name of the chamber.

4. Each judge shall have the right to use electronic digital signature as prescribed by law.

5. The flag of the Republic of Armenia shall be raised on the buildings of all the seats of courts or at the main entrance thereof.

6. The Coat of Arms of the Republic of Armenia and the flag of the Republic of Armenia shall be placed in the courtroom and in the separate office of the judge.

7. The Supreme Judicial Council shall define the description and the procedure for provision of the gown, the seals of judges and of the chambers of the Court of Cassation, the description of standard furnishing for the office of a judge.

**Article 18. Official website of the judiciary**

1. The judiciary shall have an official Internet website. The information provided for in Article 12 of this Code shall be posted on the website in a way accessible to the public. The structure of the website, procedure for its maintenance, as well as other information being posted on the website shall be defined by the Supreme Judicial Council.

**Article 19. Maintenance of judicial statistics**

1. For the purpose of ensuring the effectiveness, transparency of the activities of courts and the accountability thereof before the public, the Staff of the Supreme Judicial Council shall collect and maintain judicial statistics under the procedure established by the Supreme Judicial Council.

2. The requirements for the judicial statistics shall be as follows:

- (1) objectivity, validity, impartiality of statistics;
- (2) credibility, accuracy of statistical data and the compatibility thereof in time and in space;
- (3) timeliness, stability and completeness of statistical information;
- (4) regular publication of brief statistical data;
- (5) accessibility, publicity of statistical information.

3. The Supreme Judicial Council shall establish the form and the content of the statistical card of the judicial case according to the type of the judicial case, the list of the statistical data (information) subject to mandatory publication and the procedure for publication, the description of the content of statistical reports. The statistical data (information) published in a mandatory manner shall contain at least the data (information) provided for by parts 9-12 of this Article.

4. The Supreme Judicial Council shall establish the procedure for filling in the statistical card of the judicial case, the procedure for maintenance of judicial statistics, as well as may define, based on the needs of efficient performance of the functions of the judiciary, additional statistical classifiers for maintenance of judicial statistics.

5. In case where the statistical classifiers are modified, they shall apply only starting from the year following the modifications.

6. The Staff of the Supreme Judicial Council shall submit to the Supreme Judicial Council for approval the reports on semi-annual and annual statistical data regarding the activities of courts under the procedure and within time limits prescribed by the decision of the Supreme Judicial Council.

7. The Staff of the Supreme Judicial Council shall ensure that the statistical data collected on the basis of the statistical card of a judicial case, except for information not subject to publication provided for by law, are accessible to the public. The Staff of the Supreme Judicial Council shall provide the statistical data to the Supreme Judicial Council and shall publish them on the official Internet website of the judiciary in a special section designated for the publication of statistical data.

8. In particular, the following data in respect of each court of first instance and judge shall be published according to the cases of judicial oversight over criminal, civil, administrative, bankruptcy, juvenile and pre-trial criminal proceedings:

- (1) number of judges;
- (2) total number of cases since the previous reporting period transferred at the beginning of the reporting period;
- (3) total number of cases received during the reporting period;
- (4) total number of cases completed during the reporting period (including those completed on the ground of disposing of a case on the merits, on the ground of dismissal of the proceedings in a case and on other grounds);
- (5) total number of cases with proceedings suspended during the reporting period;
- (6) average duration of examination of a case according to the number of sessions;
- (7) average duration of examination of a case according to time (an hour being the unit of calculation) (including according to the average duration of the stages of preparation of the trial, conduct of the trial and rendering of judicial act);
- (8) cases of pre-trial proceedings according to the types;
- (9) total number of incomplete cases during the reporting period;
- (10) number of judicial acts appealed against, according to the types;
- (11) number of quashed judicial acts, according to the types.

9. In particular, the following data in respect of each court of appeal and judge shall be published:

- (1) data provided for by points 1, 2, 4-7 and 9-11 of part 8 of this Article;
- (2) total number of appeals received during the reporting period;
- (3) total number of appeals returned during the reporting period;
- (4) cases on appeals lodged against judicial acts not disposing of a case on the merits, according to the types of acts and to the courts having rendered the act being appealed.

10. With regard to the Court of Cassation, in relation to each chamber, the data provided for by part 8 of this Article, except for those provided for by points 4-6, 8, 9 of part 8 of this Article, as well as the data provided for by points 2-4 of part 9 of this Article shall be published. The data provided for by point 7 of part 8 of this Article shall be calculated in days.

11. The Staff of the Supreme Judicial Council shall also publish — annually but no later than by 31 January of the following year — the following data:

- (1) budget of courts, including the comparison of financial expenses with those of the previous reporting period according to courts, the average salary of judges and the comparison thereof with that of the previous reporting period;
- (2) total amount of the paid state duty and the state duty subject to payment;



(3) number of instituted disciplinary proceedings with regard to disciplinary action against judges, according to entities having instituted the proceedings and the grounds for instituting proceedings, number of cases with dismissed proceedings according to entities having instituted the proceedings, types of disciplinary penalties imposed, total number of cases of repeat disciplinary action;

(4) comparison of the data provided for by parts 8-11 of this Article with those of the previous year.

### **CHAPTER 3 COURT OF FIRST INSTANCE OF GENERAL JURISDICTION**

#### **Article 20. Jurisdiction of court of first instance of general jurisdiction**

1. Courts of first instance of general jurisdiction shall examine all the matters subject to examination under judicial procedure except for cases falling under the competence of an administrative court.

#### **Article 21. Specialisation of judges of courts of first instance of general jurisdiction**

1. In the court of first instance of general jurisdiction, judges of civil and criminal specialisation shall operate.

2. The Supreme Judicial Council shall select judges examining bankruptcy cases from among the judges of civil specialisation also examining civil cases.

3. The Supreme Judicial Council shall select judges examining juvenile cases from among the judges of criminal specialisation also examining criminal cases.

4. The Supreme Judicial Council shall select judges performing judicial oversight over pre-trial criminal proceedings from among the judges of criminal specialisation for a term of one year, by the principle of rotation.

5. The number of judges examining bankruptcy proceedings, juvenile cases, as well as of judges performing judicial oversight over pre-trial criminal proceedings shall be defined upon the decision of the Supreme Judicial Council for each court individually.

6. Judges referred to in parts 2-4 of this Article shall be selected for the first time by the Supreme Judicial Council by the principle of self-nomination. Where there are no self-nominated judges or the number of self-nominated judges exceeds the number of vacant positions for relevant judges in the given court, the vacant positions shall be filled based on the results of drawing lots organised by the Supreme Judicial Council, with the participation of self-nominated judges, respectively, or all the judges of relevant specialisation of the given court.

7. Where only one judge is self-nominated, while more than one vacant position exists in the given court, the self-nominated judge shall fill the vacant position by the decision of the Supreme Judicial Council, whereas other vacant positions shall be filled based on the results of drawing lots organised by the Supreme Judicial Council with the participation of all the judges of relevant specialisation of the given court.

8. Upon expiration of the time limits specified in part 4 of this Article, the Supreme Judicial Council shall select the judges performing judicial oversight over pre-trial criminal proceedings based on the results of drawing lots organised by the Supreme Judicial Council with the participation of judges who have not yet been rotated, except for cases where the number thereof is less than the number of vacant positions in the given court.

9. Within the time limits specified in part 4 of this Article, criminal cases shall not be assigned to the judges performing judicial oversight over pre-trial criminal proceedings.

10. The same person may not be selected as a judge performing judicial oversight over the pre-trial criminal proceedings for two consecutive terms, except for cases where the number of non-rotated judges is less than the number of vacant positions in the given court. In such a case a person selected as a judge performing judicial oversight over the pre-trial criminal proceedings for two consecutive terms shall not participate in drawing lots for the third time.

11. The procedure for drawing lots shall be established by the Supreme Judicial Council.

## **Article 22. Judicial territory of a court of first instance of general jurisdiction**

1. The judicial territory of a court of first instance of general jurisdiction shall be the territory of the relevant administrative district or of a marz, and in cases provided for by this Code — the territory of the relevant administrative district or a marz.

## **Article 23. Courts of first instance of general jurisdiction, number of judges and seats**

1. In the city of Yerevan, the following courts of first instance of general jurisdiction shall function:

(1) Court of First Instance of General Jurisdiction of Erebuni and Nubarashen Administrative Districts, composed of a chairperson and 7 judges;

(2) Court of First Instance of General Jurisdiction of Kentron and Nork-Marash Administrative Districts, composed of a chairperson and 13 judges;

(3) Court of First Instance of General Jurisdiction of Ajapnyak and Davtashen Administrative Districts, composed of a chairperson and 7 judges;

(4) Court of First Instance of General Jurisdiction of Avan and Nor Nork Administrative Districts, composed of chairperson and 9 judges;

(5) Court of First Instance of General Jurisdiction of Arabkir and Qanaqer-Zeytun Administrative Districts, composed of a chairperson and 11 judges;

(6) Court of First Instance of General Jurisdiction of Shengavit Administrative District, composed of a chairperson and 6 judges;

(7) Court of First Instance of General Jurisdiction of Malatia-Sebastia Administrative District, composed of a chairperson and 6 judges.

2. In marzes, the following courts of first instance of general jurisdiction shall function:

(1) Court of First Instance of General Jurisdiction of Kotayk Marz, composed of a chairperson and 9 judges;

(2) Court of First Instance of General Jurisdiction of Ararat and Vayots Dzor Marzes, composed of a chairperson and 10 judges;

(3) Court of First Instance of General Jurisdiction of Armavir Marz, composed of a chairperson and 7 judges;

(4) Court of First Instance of General Jurisdiction of Aragatsotn Marz, composed of a chairperson and 5 judges;

(5) Court of First Instance of General Jurisdiction of Shirak Marz, composed of a chairperson and 12 judges;

(6) Court of First Instance of General Jurisdiction of Lori Marz, composed of a chairperson and 12 judges;

(7) Court of First Instance of General Jurisdiction of Tavush Marz, composed of a chairperson and 5 judges;

(8) Court of First Instance of General Jurisdiction of Gegharkunik Marz, composed of a chairperson and 8 judges;

(9) Court of First Instance of General Jurisdiction of Syunik Marz, composed of a chairperson and 8 judges.

3. The seat of the court of first instance of general jurisdiction of an administrative district (administrative districts) shall be within the territory of the relevant administrative district (one of the administrative districts).

4. The central seat of the court of first instance of general jurisdiction of a marz shall be within the administrative territory of the centre of the marz. The central seat of the Court of First Instance of General Jurisdiction of Ararat and Vayots Dzor marzes shall be within the administrative territory of the centre of one of those marzes. The court of first instance of general jurisdiction of a marz may have other seats within the administrative territory of that marz.

## **CHAPTER 4 ADMINISTRATIVE COURT**

### **Article 24. Jurisdiction of the Administrative Court**

1. The Administrative Court shall have jurisdiction to examine the cases provided for by the Administrative Procedure Code of the Republic of Armenia.

### **Article 25. The judicial territory of the Administrative Court**

1. The judicial territory of the Administrative Court shall be the territory of the Republic of Armenia.

### **Article 26. Number of judges of the Administrative Court and the seats**

1. The Administrative Court shall function with a court chairperson and 26 judges.
2. The central seat of the Administrative Court shall be in the city of Yerevan.
3. The Administrative Court may have seats in marzes.

## **CHAPTER 5 COURT OF APPEAL**

### **Article 27. Jurisdiction of courts of appeal**

1. Courts of appeal shall, within the scope of powers thereof, review the final (conclusive) judicial acts of courts of first instance.

2. Other judicial acts shall be reviewed in cases provided for by law.
3. Procedure for examination of cases concerning appeals lodged against the acts of courts of first instance in courts of appeal, as well as the limits of the appellate review shall be prescribed by law.

**Article 28. The judicial territory of a court of appeal**

1. The judicial territory of a court of appeal shall be the territory of the Republic of Armenia.

**Article 29. Courts of appeal, number of judges and the seat**

1. The following three courts of appeal shall function in the Republic of Armenia:
  - (1) the Civil Court of Appeal;
  - (2) the Criminal Court of Appeal;
  - (3) the Administrative Court of Appeal.
2. The Civil Court of Appeal shall function with a court chairperson and 15 judges.
3. The Criminal Court of Appeal shall function with a court chairperson and 15 judges.
4. The Administrative Court of Appeal shall function with a court chairperson and six judges.
5. The seat of a court of appeal shall be in the city of Yerevan.

**CHAPTER 6  
COURT OF CASSATION**

**Article 30. Jurisdiction of the Court of Cassation**

1. The Court of Cassation, by way of revision of judicial acts within the scope of powers prescribed by law, shall:
  - (1) ensure the uniform application of laws and other regulatory legal acts;
  - (2) eliminate the fundamental violations of human rights and freedoms.
2. The Court of Cassation shall ensure the uniform application of laws and other regulatory legal acts by interpreting the law applied under the judicial act being reviewed or by interpreting the provision of another regulatory legal act, which has been applied in the judicial act being reviewed or, at least, another judicial act with controversial interpretation or with regard to which there is an issue of law development.
3. For the purpose of elimination of fundamental violations of human rights and freedoms the Court of Cassation shall review the judicial acts issued by the lower court in violation of the right to fair trial or in such violations of substantive or procedural law undermining the basic human rights enshrined in the Constitution and international treaties ratified by the Republic of Armenia, which have affected the outcome of the case.

**Article 31. Structure of the Court of Cassation, number of judges and the seat**

1. The Court of Cassation shall be comprised of the Chairperson of the Court of Cassation, chairpersons of chambers and 19 judges.
2. The Court of Cassation shall have three chambers:
  - (1) the Criminal Chamber;
  - (2) the Civil Chamber;
  - (3) the Administrative Chamber.
3. The Criminal Chamber shall be comprised of the Chairperson of the Chamber and five judges. The Civil Chamber shall be comprised of the Chairperson of the Chamber and nine judges. The Administrative Chamber shall be comprised of the Chairperson of the Chamber and five judges.
4. The seat of the Court of Cassation shall be in the city of Yerevan.

**Article 32. The judicial territory of the Court of Cassation**

1. The judicial territory of the Court of Cassation shall be the territory of the Republic of Armenia.

**CHAPTER 7  
CHAIRPERSONS OF COURTS AND OF CHAMBERS OF THE COURT OF CASSATION**

**Article 33. Chairpersons of courts of first instance and courts of appeal**

1. The chairperson of a court of first instance and a court of appeal shall:
  - (1) ensure the normal operation of the court;
  - (2) submit a relevant report to the Ethics and Disciplinary Commission of the General Assembly when detecting a violation of the rules of conduct by a judge;
  - (3) grant a leave to judges as prescribed by law;
  - (4) supervise the operation of the staff of a court;
  - (5) represent the court in relations with other bodies;
  - (6) apply to the Supreme Judicial Council and the General Assembly on issues related to ensuring the normal operation of the court;
  - (7) exercise other powers vested therein by law.
2. When taking a leave or being seconded the chairperson of a court of first instance and a court of appeal shall appoint one of the judges of the court as a substitute thereof.
3. In cases of temporary incapacity of the chairperson of a court of first instance and a court of appeal or suspension or automatic termination, imposed termination of the powers thereof, the latter shall be substituted by the eldest judge of the given court.

**Article 34. The Chairperson of the Court of Cassation**

1. The Chairperson of the Court of Cassation shall:
  - (1) ensure the normal operation of the Court of Cassation;
  - (2) communicate the decisions of the Court of Cassation for promulgation in the Official Journal of the Republic of Armenia;
  - (3) grant a leave to judges of the Court of Cassation as prescribed by law;
  - (4) supervise the operation of the Staff of the Court of Cassation;
  - (5) represent the Court of Cassation in relations with other bodies;
  - (6) apply to the Supreme Judicial Council and the General Assembly on issues related to ensuring the normal operation of the court;
  - (7) exercise other powers vested therein by law.
2. When taking a leave or being seconded the Chairperson of the Court of Cassation shall appoint one of the chairpersons of the chamber as a substitute thereof.
3. In cases of temporary incapacity of the Chairperson of the Court of Cassation or suspension or automatic termination, imposed termination of the powers thereof, the latter shall be substituted by the eldest chairperson of the chambers of the Court of Cassation.

**Article 35. The chairperson of a chamber of the Court of Cassation**

1. The chairperson of a chamber of the Court of Cassation shall:
  - (1) organise the operation of a chamber;
  - (2) preside over a court.
2. When taking a leave or being seconded the chairperson of a chamber of the Court of Cassation shall appoint one of the judges of the chamber as a substitute thereof.
3. In cases of temporary incapacity of the chairperson of a chamber of the Court of Cassation or suspension or automatic termination, imposed termination of the powers thereof, the latter shall be substituted by the eldest judge of the chamber of the Court of Cassation.

**CHAPTER 8  
GUARANTEES OF NORMAL OPERATION OF A COURT****Article 36. Financing of Courts**

1. The Supreme Judicial Council shall carry out financing of courts within the scope of funding provided for by the State Budget. Financing of the staffs of the courts shall be reflected in the Budget Bid and by a separate line in the State Budget entitled "Courts of the Republic of Armenia."
2. The Draft Budget Bid of a court shall be prepared by the staff of the relevant court.
3. The Medium-Term Expenditure Program and the Budget Bid of courts shall be prepared based on the bids submitted by the staffs of the courts. The chairperson of the court may make

necessary modifications to the Budget Bid and submit it to the approval of the Supreme Judicial Council. The approved Budget Bid and the Medium-Term Expenditure Program, shall be submitted to the Government for inclusion in the Draft State Budget by the decision on launching the following year's budgeting process and within the prescribed time limits.

4. The Government shall accept the Budget Bid of courts and include it in the Draft State Budget, and in case of objections it shall be submitted to the National Assembly together with the Draft State Budget. The Government shall present detailed substantiation of objections thereof concerning the Budget Bid to the National Assembly and the Supreme Judicial Council.

5. In case the Budget Bid is not accepted or the State Budget is not approved within the prescribed time limits, prior to acceptance or approval thereof, the expenditures shall be incurred in the proportions of the budget for the previous year.

6. The Budget Bid shall include all the expenditure necessary to ensure the normal operation of courts.

7. The position of the Supreme Judicial Council on the Budget Bid and the Medium-Term Expenditure Program shall be presented in the National Assembly by the representative of the Supreme Judicial Council.

8. A judicial reserve fund shall be envisaged to fund unforeseen expenditure needed to ensure the normal operation of courts, which shall be presented by a separate budget line. The size of the reserve fund shall be equal to two percent of expenditure envisaged for courts by the law on State Budget for the current year. Allocations from the reserve fund shall be made by the decision of the Supreme Judicial Council.

9. The Supreme Judicial Council shall apply to the Government where the resources of the judicial reserve fund are insufficient.

10. Where the judicial reserve fund is insufficient to ensure the normal operation of courts, the Government shall make up the shortfall from the reserve fund of the Government.

#### **Article 37. Logistical support to the operation of courts**

1. The logistical support to the operation of courts shall be provided by the staff of the relevant court.

2. The procedure for ensuring logistical support to the staffs of the courts by the Staff of the Supreme Judicial Council shall be prescribed by the Supreme Judicial Council.

### **CHAPTER 9 DISTRIBUTION OF CASES IN COURTS**

#### **Article 38. The principle of distribution of cases in courts**

1. Cases shall be distributed among judges according to specialisations upon the principle of random selection as prescribed by this Code.

#### **Article 39. Procedure for distribution of cases in a court of first instance**

1. The criminal, civil, administrative, bankruptcy, minor cases, as well as cases of judicial review of pre-trial criminal proceedings filed with a court shall be immediately entered into a computer program and on the same day after being entered shall be equally distributed among the judges of the given court which hold relevant specialisation through random selection and without taking into account the sequence of entrance of cases.

2. In case of impossibility of equal distribution of cases, the cases shall be distributed so that the difference among the cases assigned to each judge holding relevant specialisation does not exceed one. In this case, when distributing cases on the following day, firstly, one case shall be assigned, through random selection, to the judges having received less number of cases as a result of distribution of the previous day, whereas the remainder of cases shall be distributed among all judges under general procedure.
3. The number of civil and criminal cases assigned to judges examining respectively bankruptcy and minor cases shall be proportionally decreased taking into account bankruptcy and minor cases already assigned thereto.
4. Where a case under examination is of particular complexity, the judge may apply to the Supreme Judicial Council by suggesting to temporarily remove his or her name and surname from the distribution list or to define a separate percentage for the cases to be distributed thereto. In this case the Supreme Judicial Council may make a decision to temporarily remove the name and surname of the judge from the distribution list or to define a separate percentage for the cases to be distributed thereto by defining certain time period which may not exceed six months, and in exceptional cases — one year.
5. Where a judge is on leave (including the period of 20 days preceding the leave) or seconded (including the period of 20 days preceding the secondment and the period of 30 days preceding the expiry of the time period of secondment) or is missing as a result of temporary incapacity, or the powers thereof have been suspended, or three months are left till the age limit for holding office, the name and surname of this judge must be removed from the distribution list for relevant time period by indicating the ground and the time period.
6. In case a new judge is appointed, the distribution of cases to this judge shall be carried out under general procedure.
7. Where a court of first instance of general jurisdiction has seats where at least two judges of the same specialisation operate, the chairperson of this court shall, according to the rules of court jurisdiction provided for by law, determine the seat where the given case must be examined, whereas the distribution of cases among the judges operating at this seat shall be carried out under general procedure prescribed by this Article.
8. Where there is only one judge at the seat of a court and where the chairperson of a court has decided, according to the rules of court jurisdiction provided for by law, that the case must be examined at the given seat, the procedure for distribution of cases provided for by this Article shall not be applied to the given seat, and the case shall be assigned to the given judge.
9. Where a case filed with a court, according to the law, is subject to examination by a panel of judges, the given case shall be assigned to the presiding judge of the panel, and the other judges of the panel shall be determined upon the principle of random selection.

#### **Article 40. Procedure for distribution of cases in a court of appeal**

1. The cases filed with a court of appeal shall be assigned to judges (in case of appeals lodged against judicial acts disposing of a case on the merits — to the presiding judges) as prescribed by parts 1-2 and 4-6 of Article 39 of this Code.
2. Cases concerning the appeals lodged against final (conclusive) judicial acts and cases concerning appeals lodged against other judicial acts shall be entered into computer program and shall be distributed separately.
3. For the purpose of examination, by a panel of judges, of cases on appeals lodged against final (conclusive) judicial acts, panels shall be formed in a court of appeal as prescribed by law.



4. The penal of judges shall be presided over by the member of the given panel, whereto certain case was assigned as prescribed by this Article.

5. Each year on 1 January one member from each panel of judges, formed as prescribed by part 3 of this Article, shall be successively, through random selection, transferred from one panel of judges to another.

**Article 41. Procedure for distribution of cases in the Court of Cassation**

1. Case filed with the Court of Cassation shall be entered into computer on the same day and shall be distributed among the judges of the given chamber as prescribed by parts 1-3 and 5-9 of Article 39 of this Code. The reporting judge on the given case shall be determined in the result of distribution.

**Article 42. Procedure for distribution of cases to chairpersons of courts, chairpersons of chambers of the Court of Cassation, judge members of the Supreme Judicial Council and the Commissions of the General Assembly**

1. Assignment of cases to chairpersons of courts, chairpersons of chambers of the Court of Cassation, judge members of the Supreme Judicial Council and the Commissions of the General Assembly shall be carried out under general procedure, but the number of cases assigned thereto each month must be less — by up to 25 percent — than the monthly average number of cases assigned to one judge of the given court, holding relevant specialisation, during previous six months.

2. The Supreme Judicial Council shall, within the framework of percentage interval prescribed by part 1 of this Article, define the certain percentage of cases assigned to chairpersons of courts — as per courts, chairpersons of chambers, judge members of the Supreme Judicial Council and the Commissions of the General Assembly.

3. The Supreme Judicial Council may, based on the application submitted by chairpersons of courts, chairpersons of chambers, judge members of the Supreme Judicial Council and the Commissions of the General Assembly, define the percentage exceeding the maximum percentage (25 percent) provided for by part 1 of this Article.

**Article 43. Procedure for redistribution of cases**

1. Where the judge is seconded, or the secondment period thereof has expired, or where he or she has been transferred to another court, or exchange of the judicial positions has been made, or the latter has recused himself or herself from that case, or has participated in the examination of the given case in the past, or the powers thereof have been suspended, automatically or imposingly terminated, the cases assigned to that judge shall be as equally as possible redistributed among other judges of the given court holding relevant specialisation by computer program through random selection.

2. The procedure for redistribution of cases shall be prescribed by the Supreme Judicial Council.

**Article 44. Computerisation for distribution of cases in courts**

1. The distribution of cases among judges and the formation of panels of judges shall be carried out through special computer program.

2. While operating the computer program the confidentiality of data shall be ensured by excluding potential external interference.

3. Where the distribution of cases by computer is impossible due to force majeure, the chairperson of a court shall equally distribute the cases among judges in alphabetical order of the surnames of judges immediately after the filing with a court thereof. In this case the chairperson of a court shall immediately inform the Supreme Judicial Council about that in writing.

4. Illegal interference in the process of distribution of cases among judges being carried out through relevant computer program shall entail liability in cases provided for by law.

## **SECTION 2 STATUS OF A JUDGE**

### **CHAPTER 10 GUARANTEES FOR THE ACTIVITIES OF JUDGES**

#### **Article 45. Apolitical stance of judges**

1. A judge may not be a member or a founder of any party or otherwise engage in political activities. In all circumstances, a judge must exercise political restraint and neutrality.

2. A judge may participate in elections of state and local self-government bodies only as a voter. A judge may not participate in an election campaign.

3. Judges' professional associations' or judges' self-governance bodies' professional discussions or opinions on draft legal acts regulating the functioning of the judiciary or on those related to themselves, as well as discussions and statements on regular activities of the judiciary, including public ones, shall not be considered as violating the principle of apolitical stance.

#### **Article 46. Incompatibility requirements for the activities of judges**

1. A judge may not hold any position not related to his or her status in other state or local self-government bodies, any position in commercial organisations, or engage in entrepreneurial activities or perform any other paid work, except for scientific, educational and creative work.

2. A judge may occupy a position in a non-commercial organisation, if:

(1) his or her activities in such position are performed without any compensation;

(2) a case related to the interests of that organisation is not being examined in or reasonably anticipated before the relevant court or a court of lower instance;

(3) that position does not imply disposal of funds, entering into civil law transactions on behalf of the organisation, or representation of the property interests of the organisation before state or local self-government bodies.

3. A judge may not act as a property trust manager or executor of a will, except when he or she acts so without any compensation in connection with a property of his or her close relatives or that of a person under his or her guardianship or curatorship, if being a property trust manager does not imply implementation of an entrepreneurial activity.

4. A judge must not act as a representative or provide counselling, even if such activities are performed without compensation, except for cases when he or she acts as a legal representative or provides legal counselling to his or her close relatives or persons under his or her guardianship or curatorship without any compensation.

5. Within the meaning of this Code, close relatives shall mean the judge's spouse, the judge's or his or her spouse's parent, child, full or half (paternal or maternal) brother or sister, grandfather, grandmother, grandchild, great-grandchild, brother's or sister's spouse, child's spouse, as well as adopter or adoptee.

#### **Article 47. Immunity of judges**

1. Pursuant to part 2 of Article 164 of the Constitution, a judge may not be held liable for the opinion expressed or judicial act rendered during administration of justice, except where there are elements of crime or disciplinary violation.

2. Pursuant to part 4 of Article 164 of the Constitution, criminal prosecution of a judge with respect to the exercise of his or her powers may be initiated only upon the consent of the Supreme Judicial Council.

3. A judge may not be deprived of liberty, with respect to the exercise of his or her powers, without the consent of the Supreme Judicial Council except where he or she has been caught at the time of or immediately after committing a criminal offence. In this case, deprivation of liberty may not last more than seventy-two hours. The Chairperson of the Supreme Judicial Council shall be immediately notified of the deprivation of liberty of a judge. Within 24 hours of the arrest, the arrest decision shall be forwarded to the Chairperson of the Supreme Judicial Council. The bodies and officials that made the arrest must ensure the unimpeded access of the Chairperson of the Supreme Judicial Council to the place where the arrested judge is held and must ensure that he or she can visit the judge.

4. The institution of the criminal prosecution of a judge and the prosecutorial control of the pre-trial proceedings of the case shall be conducted by the Prosecutor General of the Republic of Armenia.

5. Entry into a court building for purposes of a search, examination, or seizure of documents or objects shall be performed with notification of the chairperson of the court and the Supreme Judicial Council.

6. During his or her term of office and after the imposed or automatic termination of his or her powers, a judge may not be interrogated as a witness about a case examined by him or her, except for cases prescribed by law.

7. Declaration of martial law or state of emergency shall not eliminate the immunity guarantees laid down in this Article.

#### **Article 48. Irreplaceability of a judge**

1. A judge shall serve in office until reaching the age of 65.

2. Where a case cannot be examined by a court due to the insufficient number of judges caused by objective reasons, a judge may, upon the decision of the Supreme Judicial Council and with his or her consent, be seconded to a court of first instance of general jurisdiction for a term of up to one year. The mentioned term may be extended only up to the end of the examination of an ongoing case assumed by the relevant judge. The same judge may not be seconded to another court again within one year after the end of the previous secondment.

3. In the case of reduction in the number of judges in a court, preference in continuing their service in office in that court shall be given to the chairperson of the court, followed by the elder judges. Where the elder judges are of the same age, preference shall be given to the person with a longer record of service in the position of a judge. The powers of redundant judges shall not terminate, and they shall continue to serve in office, unless this Code provides otherwise. The status of such judges, including the right to receive salary and increments and the right to become or remain included in the list of judges considered for promotion, shall be preserved

until they reach the age limit prescribed by the Constitution for judges to serve in office, unless this Code provides otherwise.

4. If the law stipulates abolition of a court or of a Cassation Court chamber, then the relevant judges shall be considered as reserve judges, and their status, including the right to receive salary and increments and the right to become or remain included in the list of judges considered for promotion, shall be preserved until they reach the age limit prescribed by the Constitution for judges to serve in office, unless this Code provides otherwise.

5. Redundant and reserve judges shall be seconded in the order of priority.

#### **Article 49. Judges' salaries and increments added thereon**

1. Pursuant to part 10 of Article 164 of the Constitution, the remuneration of a judge shall be determined in compliance with his or her high status and responsibility. The relations with regard to calculations and amounts of remuneration of judges, including calculations and amounts of basic and additional salaries, shall be regulated by the Law of the Republic of Armenia "On Remuneration of Persons Holding State Positions".

2. A judge's salary and increments added thereon may not be reduced during the term of his or her office of the judge.

3. A judge shall enjoy the social guarantees provided for by other laws and legal acts.

#### **Article 50. Leave of judges**

1. Judges shall be entitled to a regular annual paid leave for a duration of 30 working days.

2. The regular annual paid leave of a judge must be granted so as not to hinder the normal operation of the court. The procedure for granting a regular annual leave to judges shall be established by the Supreme Judicial Council.

3. In individual cases, for the reason of personal or family circumstances, the chairperson of the relevant court may grant a judge an unpaid leave for a duration of up to 30 days per year in total. For the purpose of defending an academic dissertation, a judge shall be entitled to an unpaid leave for up to 30 working days.

4. Disputes related to granting of leaves shall be settled by the Supreme Judicial Council.

#### **Article 51. Right of a judge to participate in educational programmes**

1. In addition to participating in mandatory training programmes, a judge shall have the right to participate in other educational training programmes, conferences and other professional meetings of lawyers.

2. The permission to be absent for up to five days in order to participate in such events during working hours shall be granted by the chairperson of the relevant court. In order to receive permission for a longer period, a judge shall apply to the Training Commission of the General Assembly of Judges.

3. Where a judge has received the consent of the chairperson of the court or that of the Training Commission of the General Assembly of Judges, the absence of the judge in connection with participation in such events shall be considered to be with valid excuse, and the judge shall retain his or her salary.

4. Disputes related to not giving consent shall be settled by the Supreme Judicial Council.

## **Article 52. Personal file of a judge**

1. The staff of the Supreme Judicial Council shall draw and maintain a personal file in respect of each judge.
2. The personal file of a judge must contain the following information:
  - (1) information regarding the judge's name, surname, date of birth, place of permanent residence, education and knowledge of foreign languages;
  - (2) a copy of the act on the appointment of the judge;
  - (3) information regarding the performance shown by the judge during his or her studies at the Academy of Justice and information regarding the probationary period in courts;
  - (4) information regarding the training courses and the amount of training hours attended by the judge while working in the position of a judge;
  - (5) copies of the decisions on instituting disciplinary proceedings against the judge, imposing disciplinary action against the judge or dismissing the proceedings of a disciplinary case or on imposed or automatic termination of the powers of the judge;
  - (6) the annual declaration of income and assets of the judge and persons related to him or her;
  - (7) other information determined by the Supreme Judicial Council.
3. The Supreme Judicial Council may determine other information to be included in the personal file.
4. Information mentioned in points 3-7 of part 2 of this Article may not be publicly disclosed, except for cases prescribed by law. In addition to the relevant judge, the President of the Republic of Armenia, the body entitled to institute disciplinary proceedings against the judge and the Supreme Judicial Council shall also be entitled to have a reading access — during the exercise of their powers — to the personal file of the judge.

## **Article 53. Staff of the judge**

1. Each judge of a court of first instance and that of a court of appeal shall have an assistant and a secretary.
2. The Chairperson of the Court of Cassation, judges of the chambers and the chairpersons of the chambers shall each have two assistants.
3. The assistant and secretary of a judge shall be considered as judicial servants attached to the judge.
4. The cases of and the procedure for attaching additional secretaries and assistants to judges shall be determined upon the decision of the Supreme Judicial Council.

## **Article 54. Official identification card of a judge**

1. A judge shall be issued an official identification card for his or her entire term of office by the President of the Republic, while the Chairperson of the Court of Cassation shall be issued such a card by the Chairperson of the National Assembly.

**Article 55. Security and personal protection means of a judge**

1. Judges shall have the right to keep and carry registered arms and special protection means. Registered arms and special protection means shall be provided to judges by an authorised body as prescribed by the Government.

2. A judge and his or her family members shall enjoy the special protection of the State. Where there is an unlawful influence or a threat of unlawful influence on the immunity of a judge, his or her family members, the residential and office premises occupied by him or her, or his or her vehicles, the judge shall submit a request for taking necessary measures to the competent state bodies who are obliged to immediately take relevant measures to ensure the security of the judge, his or her family members, the residential and office premises occupied by him or her, and his or her vehicles.

**Article 56. Expenses of business trips and off-site sessions of a judge**

1. In the case of being sent to a business trip outside the place of his or her permanent residence, a judge shall be reimbursed for the expenses of business trips in the amount by the Government of the Republic of Armenia, and in the case of transfer to another court outside the place of his or her permanent residence (from marz to marz, from marz to Yerevan and vice versa), also for the expenses related to the judge's and his or her family members' relocation and residence.

2. In the cases provided by law, when holding an off-site session, a judge's expenses shall be compensated by the Supreme Judicial Council in the amount prescribed by the Government.

**Article 57. Right of the judge to immediate reception**

1. A judge shall have the right to immediate reception by the President of the Republic of Armenia and the Chairperson of the Supreme Judicial Council.

## **CHAPTER 11 RULES OF JUDICIAL CONDUCT**

**Article 58. Rules of judicial conduct**

1. The rules of judicial conduct shall be prescribed by this Code.

2. The rules of judicial conduct shall be binding for all judges. A judge must require that the rules of conduct provided by part 1 of Article 60 and points 9-10 of part 1 of Article 61 be observed by the court staff or persons under the judge's management or supervision. In the case of violation of rules of conduct by the court staff or persons under a judge's management or supervision, the judge shall inform thereof the competent body authorised to impose disciplinary sanctions on the judicial servant.

3. The rules prescribed by points 1-6 of part 1 of Article 60 and Article 62 shall be binding for the persons included in a list of judge candidates.

4. The Ethics and Disciplinary Commission shall, upon a judge's written request, provide advisory opinion on the rules of judicial conduct.

**Article 59. Purpose of and duty to follow the rules of conduct**

1. With his or her activities and conduct, a judge must endeavour to ensure the independence and impartiality of the court, and to contribute to building respect for and confidence in the court. The interpretation and application of the rules of conduct must contribute to the achievement of this goal.

2. A judge must contribute to instilling high standards of conduct by both personally following the rules of conduct and pursuing the observance thereof by his or her colleagues.

**Article 60. General rules of conduct for persons holding judicial positions**

1. A judge shall be obliged:

(1) to refrain, everywhere and when engaging in any activity, from practicing any conduct incompatible with or undermining the high reputation of the judiciary, or any conduct decreasing the public confidence in judiciary, including issuing in favour of any person a personal guarantee prescribed by the Criminal Procedure Code of the Republic of Armenia, as well as refrain from relations and practicing any conduct incompatible with the title of a judge that can disgrace his or her reputation, honour and dignity;

(2) to be refrain from undue influences, pressure, threats and other interference coming from legislative and executive authorities, officials and citizens, private interests, public opinion and other sources, to be free from the fear of criticism and establish a reputation as an independent person in the eyes of an impartial observer, refrain from expressing an opinion on any ongoing case examined or anticipated in any court. This point shall not apply in the case where the judge acts as a party to or as a legal representative of a party to proceedings;

(3) to refrain from publicly casting doubt on judicial acts having entered into force, or on actions, professional and personal qualities of his or her colleagues;

(4) to demonstrate political restraint and neutrality, to refrain from practicing any conduct that may leave an impression of being engaged in political activities;

(5) to adopt for himself or herself such restrictions that will ensure public perception of him or her as a well-balanced and fair person;

(6) not to initiate, not to authorise communications with a party to or a representative or advocate of a party to the proceedings without the participation of the adverse party to or the representative or advocate of the adverse party to the proceedings (hereinafter referred to as "ex parte communications"), to immediately communicate the content of the ex parte communications to the party which has not participated in those communications, if such have taken place in circumstances beyond the judge's control, and not take such communications into account.

2. Exceptions from the rule prescribed by point 6 part 1 of this Article shall be permissible only in the following cases:

(1) when circumstances make *ex parte* communications necessary for logistical purposes, such as reaching agreement on the date and time of the session, for instance, or other similar emergencies, provided that the communications do not concern the merits of the case, do not place one party at a procedural or other advantage over another, and provided that the judge immediately communicates the content of such communications to the other party, allowing the latter to respond;

(2) where such ex parte communication by the judge is directly provided by law.

**Article 61. Rules of judicial conduct when acting *ex officio***

1. When acting *ex officio*, a judge shall be obliged:

- (1) to act in accordance with the Constitution, constitutional laws, laws;
- (2) to be independent and impartial;
- (3) to render judicial acts on his or her own, which does not exclude receiving legal advice from his or her judge colleagues on legal issues concerning complicated cases, provided that the final decision is rendered by the judge on his or her own;
- (4) to perform his or her official duties in good faith, giving priority to his duties aimed at the administration of justice over other types of activities he or she is legally allowed to engage in;
- (5) to ensure proper level of professionalism, take measures to enhance his or her knowledge of the national and international law, to consistently improve his or her skills and personal qualities;
- (6) to examine and resolve — without prejudice to the interests of justice, within reasonable time limits and with minimum expenses — matters reserved to his or her authority by virtue of law;
- (7) to hold sessions wearing the uniform prescribed by law and not interfere with the operation of the recording system;
- (8) to show impartiality when performing his or her duties, refrain from displaying bias through his or her words or conduct, and from showing discrimination or creating such impression;
- (9) to act reasonably so that cases causing the need of his or her self-recusal are reduced to a minimum;
- (10) not to use, for purposes other than the administration of justice, or disclose or otherwise make accessible non-public information that he or she has become aware of in the course of exercising his or her official duties, unless otherwise provided by law;
- (11) treat all participants of the proceedings, judges, the staff of the court, and all persons with whom he or she communicates *ex officio*, with patience, dignity, respect and politeness.

**Article 62. Rules of judicial conduct in non-judicial activities**

1. When engaged in non-judicial activities, a judge shall be obliged:

- (1) not to use the reputation of the judicial positions for his or her or another person's benefit;
- (2) to avoid any conflict of interest, so that his or her family, social and other relationships do not influence the exercise of his or her official powers in any way;
- (3) refrain from undue communications regarding a case with mass media.



**Article 63. Self-recusal of a judge**

1. A judge shall be obliged to recuse himself or herself, if he or she has knowledge of circumstances that may cast reasonable doubt on his or her impartiality in the case or matter concerned.

2. The grounds for self-recusal shall include, *inter alia*, the cases where:

(1) a judge is biased towards a person acting as a party, his or her representative, advocate, other participants of the proceedings;

(2) a judge, acting in his or her personal capacity, is a witness to circumstances being disputed during the examination of a case;

(3) a judge or his or her close relative will reasonably act (there are grounds to believe that they will act) as a participant in the case or has taken part in the examination of the case concerned in a court of lower instance as a judge or a participant in the case;

(4) a judge is aware that he or she personally or his or her close relative pursue economic interests in connection with the merits of the dispute or with any of the parties;

(5) a judge occupies a position in a non-commercial organisation and the interests of that organisation may be affected by the case.

3. Within the meaning of this Article, the concept “economic interest” shall not include the following:

(1) managing stocks of the open joint-stock company in question through an investment fund or a pension fund or another nominee, where the judge is not aware of it;

(2) having a deposit in the bank in question, having an insurance policy with the insurance company in question, or being a participant of the credit union or the savings union in question, where the outcome of the case does not pose a significant threat to the solvency of that organisation;

(3) owning securities issued by the Republic of Armenia, a community or the Central Bank of the Republic of Armenia.

4. A judge having recused himself or herself shall be obliged to disclose the grounds for self-recusal to the parties, which shall be put on the record literally. Where the judge firmly believes that he or she will be impartial in the case in question, he or she may propose that the parties consider, in his or her absence, waiving his or her self-recusal. Where the parties decide, in the absence of the judge, to waive the self-recusal of the judge, the latter shall carry out the examination of the case after that decision has been put on the record.

**Article 64. Compensation derived from non-judicial activities of a judge**

1. Payment for a judge’s scientific, educational and creative work may not exceed the reasonable amount, i.e. the amount that a person who is not a judge but has similar qualifications required for the same activity would anticipate.

2. For non-judicial activities carried out in compliance with part 1 of this Article, a judge may receive reimbursement for expenses, where the source of such reimbursement cannot be reasonably perceived as influence over the judge in the performance of his or her judicial duties, and where such reimbursement of expenses is limited to the real amount of reasonable costs of travel, food, and accommodation of the judge (and, as the case may be, also those of the judge’s spouse).

**Article 65. Prohibition on judges engaging in entrepreneurial activities**

1. A judge shall not have the right to be an individual entrepreneur.
2. A judge shall not have the right to be a participator (shareholder) of an economic entity or a depositor of a limited partnership, if:
  - (1) in addition to participating in the general meeting of the company in question, the judge is also engaged in the performance of instructive or managerial functions within the organisation; or
  - (2) it can be reasonably assumed that the commercial organisation in question will often appear before the relevant court as a participant in a case;
  - (3) the judge or the members of his or her family (spouse, parent, child, grandfather, grandmother, adopter, adoptee) possess, alone or together, more than 10 per cent of the statutory capital of the company in question or of the share capital of the partnership in question.
3. A judge must endeavour to manage his or her investments in such a way as to minimise the number of cases in which he or she must recuse himself or herself.

**Article 66. Prohibition on judges accepting gifts**

1. A judge must not accept a gift from anyone or agree to accept a gift in the future. A judge must endeavour that his or her family members residing with him or her refrain from such actions.
2. Within the meaning of this Law, the concept of "gift" shall imply any advantage related to property interests that would not reasonably be granted to a person who is not a judge. Within the meaning of this Law, the concept of "gift" shall also include ceded claims, surrender of claims without compensation or at an apparently disproportionately low price, property sold at an apparently disproportionately low price, services rendered or work carried out at an apparently disproportionately low price, as well as borrowings, gratuitous use of another's property, and other actions, as a result of which a person derives benefit (advantage).
3. The restrictions specified in this part shall not apply to the following:
  - (1) gifts and awards usually given in public events;
  - (2) gifts received by another family member residing with the judge, in connection with the entrepreneurial, professional or other activity of that family member, including gifts which may be jointly used by other family members, including the judge, provided that such gift may not be reasonably perceived as having the aim of influencing the judge;
  - (3) gifts received as part of everyday hospitalities;
  - (4) gifts received from a relative, kinsperson or friend on special occasions, particularly marriage, anniversary, or birthday, provided that the nature and amount of the gift reasonably correspond to the event in question and the nature of the relationships between them;
  - (5) gifts received from a relative, kinsperson or a friend, if the nature and amount of the gift reasonably correspond to the nature of the relationships between them;
  - (6) scholarships, grants, or benefits, awarded in public competitions on the same conditions and criteria as those applied to other applicants, or as a result of another transparent process;
  - (7) loans received from financial institutions on ordinary or general conditions.

4. Where the value of gifts, considered as permissible under this Article, received from the same person during a calendar year exceeds two hundred and fifty thousand Armenian drams or where the total value of all gifts, considered as permissible, received during a calendar year exceeds one million Armenian drams, the judge shall be obliged to report thereon to the Ethics and Disciplinary Commission within a period of ten days.

5. Where a judge becomes aware that his or her close relative was given a gift which may reasonably be perceived as having the aim of influencing the judge, the judge shall be obliged to report thereon to the Ethics and Disciplinary Commission within a period of one week following the receipt of such information.

6. Where a judge has been given a gift which is not considered as permissible under this Article and which cannot be returned or compensated equivalently within a period of one month after the receipt of the gift, he or she shall be obliged to transfer it to the Republic of Armenia within a period of two months, as prescribed by the Government.

#### **Article 67. Filing of a financial declaration by a judge**

1. A judge shall be obliged to send a copy of the declaration submitted as prescribed by law to the staff of the Supreme Judicial Council.

### **CHAPTER 12. PERFORMANCE EVALUATION OF JUDGES**

#### **Article 68. Performance evaluation of judges**

1. The performance of judges who have submitted an application to the Supreme Judicial Council for being included in the list of judge candidates for promotion shall be evaluated.

2. The aim of the performance evaluation of judges is to contribute to the selection of the best candidates when compiling the lists of judge candidates for promotion.

3. The performance evaluation of judges shall be carried out by the Evaluation Commission of the General Assembly (hereinafter referred to as "the Evaluation Commission") on the basis of quantitative and qualitative criteria.

4. The collection of data necessary for the performance evaluation of judges on the basis of quantitative criteria shall begin with the date of judges' appointment to their position and shall be carried out through the automated case management system operated by the staff of the Supreme Judicial Council.

5. The quantitative evaluation shall be carried out by evaluating the judge's performance throughout the three years preceding the date of submission of the application, on the basis of the data collected as prescribed by part 4 of this Article, while qualitative evaluation shall be carried out on the basis of the criteria prescribed by part 2 of Article 69 of this Code.

6. The performance evaluation of former judges shall be carried out on the basis of their performance throughout the last three years of their term of office.

#### **Article 69. Criteria for performance evaluation of judges**

1. Quantitative criteria for performance evaluation of judges according to civil, criminal and administrative cases shall be:

(1) workload and quantitative performance of a judge;

(2) average duration of examination of cases (unit of calculation: day) according to different types of cases;

(3) observance by a judge of time limits prescribed by law for the performance of individual procedural actions.

2. Qualitative criteria for performance evaluation of judges shall be:

(1) ability to deliver well-reasoned judicial acts, in particular:

(a) observance of requirements as to the structure of judicial acts,

(b) clarity of the judicial act,

(c) intelligibility of writing,

(d) analytical skills,

(e) preciseness of the final part of the judicial act;

(2) professional abilities:

(a) impartial attitude towards the participants of the proceedings,

(b) ability to maintain self-control,

(c) skills to conduct the court session.

3. The Supreme Judicial Council shall prescribe the procedure for, timetable, methodology of the performance evaluation of judges and other details necessary for the performance evaluation of judges.

4. For the purpose of evaluation on the basis of qualitative criteria, the Commission must study protocols of cases examined by the judge in question and judicial acts rendered in those cases, the amount and the procedure for selection of which, as well as other details, shall be prescribed by the Supreme Judicial Council.

5. When evaluating the performance of a judge of a court of appeal, when considering cases examined by a panel of judges, only those shall be taken into account in which the judge in question acted as a presiding judge. Where the judge in question has submitted a special opinion in a case examined by a panel of judges, his or her performance shall not be evaluated on the basis of the criteria prescribed by point 1 of part 2 of this Article.

6. In the case of examination of cases by a panel of judges, only the judge presiding over the court session in the cases examined by the panel of judges shall be evaluated on the basis of the criterion provided by sub-point "c" of point 2 of part 2 of this Article.

#### **Article 70. Summarising the results of performance evaluation of judges**

1. Based on the overall results of evaluation carried out on the basis of quantitative and qualitative criteria, the [Evaluation Commission] shall, according to each criteria and according to the sum of evaluations, evaluate the performance of judges as:

(1) excellent;

(2) good;

(3) fair;

(4) poor.

2. In the case of a tie vote when adopting a decision on the evaluation results, the decision favourable for the judge shall be considered adopted.

3. The Evaluation Commission shall, within a period of three days, send the grade referred to in part 1 of this Article to the judge and the Supreme Judicial Council.

4. The judge may file an objection against the decisions of the Evaluation Commission on the evaluation results, and the objection shall be attached to these decisions.

5. The decisions of the Evaluation Commission on the evaluation results may be appealed against before the Supreme Judicial Council within a period of one week after receiving the decision.

6. Where the Supreme Judicial Council declares the decision of the Evaluation Commission invalid, a new performance evaluation of the judge in question shall be carried out in the general manner prescribed by this Code.

7. The evaluation results, as well as the materials supporting those results, shall be submitted to the Supreme Judicial Council.

#### **Article 71. Consequences of the performance evaluation of judges**

1. Where, based on the overall results of evaluation, the performance of a judge has been evaluated as poor, the judge may not, within three years from the year following the evaluation, submit an application to the Supreme Judicial Council for being included in the list of judge candidates for promotion.

2. Where, based on the overall results of the evaluation, the performance of a judge has been evaluated as poor, the Evaluation Commission shall render a decision on sending the judge, with his or her consent, for additional training, specifying the criteria by which his or her skills need to be improved. The decision of the Evaluation Commission shall be forwarded to the Training Commission of the General Assembly (hereinafter referred to as “the Training Commission”) for determining the areas of training.

#### **Article 72. Performance evaluation of acting judges who are members of the Evaluation Commission**

1. The evaluation of acting judges who are members of the Evaluation Commission or members of the Supreme Judicial Council shall be carried out in the general manner prescribed by this Chapter.

2. A judge member of the Evaluation Commission shall not participate in the evaluation and summarisation of the results of his or her performance.

### **SECTION 3 SELF-GOVERNANCE OF THE JUDICIARY**

#### **CHAPTER 13 GENERAL ASSEMBLY OF JUDGES**

#### **Article 73. General Assembly of Judges**

1. The General Assembly shall be composed of all the judges of the Republic of Armenia.

2. Regular meetings of the General Assembly of Judges of the Republic of Armenia shall be convened at least once a year by the Chairperson of the Court of Cassation. An extraordinary meeting of the General Assembly of Judges of the Republic of Armenia may be convened by at least one third of judges or by the Chairperson of the Court of Cassation.
3. The General Assembly shall:
  - (1) elect and propose the candidates for three judges of the Constitutional Court;
  - (2) elect the judge members of the Supreme Judicial Council;
  - (3) exercise other powers provided for by law.
4. The General Assembly shall operate in accordance with the rules of procedure approved by the General Assembly.
5. The General Assembly shall have a quorum where it is attended by more than half of all the judges. The decisions shall be adopted by the Assembly through an open ballot, by a simple majority vote of the judges participating in the voting. A secret ballot may be held in the cases provided for by the rules of procedure of the Assembly, as well as upon the decision of the Assembly. Elections shall be held with ballot papers, through secret ballots.
6. The General Assembly shall be presided over by the Chairperson of the Court of Cassation whereas in case of absence thereof — by the person substituting the Chairperson of the Court of Cassation.
7. For the purpose of proposing candidates for judges of the Constitutional Court, the General Assembly shall, by a majority vote of all the members, elect self-nominated candidates or candidates nominated by the members of the General Assembly and submit to the National Assembly a proposal concerning the candidates within one day.

#### **Article 74. Commissions of the General Assembly of Judges**

1. The General Assembly shall establish the Ethics and Disciplinary Commission, the Training Commission and the Commission for Evaluation of Judges.
2. The Commissions shall exercise the powers reserved thereto by this Code.
3. The chairpersons of courts, the chairpersons of the chambers of the Court of Cassation and the members of the Supreme Judicial Council may not be members of the Commissions of the General Assembly. A person may not simultaneously be a member of two Commissions of the General Assembly.
4. The Ethics and Disciplinary Commission shall be composed of seven members, out of which one shall be selected from among the judges of the Administrative Court, one — from among the judges of the courts of first instance of general jurisdiction of the city of Yerevan, two — from among the judges of the courts of first instance of general jurisdiction of the marzes of the Republic of Armenia, and three — from among the judges of the courts of appeal.
5. The Training Commission shall be composed of five members, out of which one shall be selected from the Court of Cassation, one — from a court of appeal, and three — from the courts of first Instance.
6. The Commission for Evaluation of Judges (hereinafter referred to as "the Evaluation Commission") shall be composed of five members, including one academic lawyer, one former judge whose term of office in the position of a judge was terminated on the ground of attaining the age of serving in office, one — from among the judges of the courts of first Instance, one —

from among the judges of the courts of appeal, and one — from among the judges of the Court of Cassation.

7. A candidate for a judge member of the Evaluation Commission must have a record of service in the position of a judge of at least five years and an “excellent” or “good” grade from his or her latest performance evaluation.

8. A member of the General Assembly may be nominated as a member of a Commission through self-nomination or by being nominated, with his or her consent, by any other member of the General Assembly. A former judge or an academic lawyer may be nominated, with his or her consent, as a member of the Evaluation Commission by any participant of the General Assembly. Persons having at least eight years of work experience in academic institutions during the last ten years may be nominated as academic lawyer members of the Evaluation Commission.

9. The members of the Commissions shall be elected through a secret ballot, by the members of the General Assembly of Judges, for a period of four years.

10. The voting shall be held with individual ballot papers, according to the division of courts (in the case of the Evaluation Commission, also according to the former judges and the academic lawyers) provided by parts 3-5 of this Article. The ballot paper shall include the names of all the judges of the relevant court(s) (in the case of the Evaluation Commission, also the names of the former judges and the academic lawyers) who have been nominated as prescribed by part 8 of this Article. On the ballot paper, the word "for" shall be written next to the name and surname of each candidate in an empty checkbox for marking. When voting, a judge shall have one vote. The candidates having received the higher number of votes shall be considered as elected. In the case of a tie vote, the candidate with a longer record of service in the position of a judge, and in the case of an academic lawyer, the candidate with a longer record of work in academic institutions, and, in the case of an equal record, the candidate with a longer record of professional work, shall be considered elected. Where one candidate has been nominated, he or she shall be considered elected in the case of receiving more than half of the votes.

11. With a view to registering the candidates for the members of the Commissions of the General Assembly, as well as organising the voting, counting the votes and summarising the results of the voting, the General Assembly shall set up a Counting Commission comprised of five members elected by the General Assembly through an open ballot. Judges may be nominated as members of the Counting Commission through self-nomination or by being nominated by any other participant of the General Assembly. The rules of operation of the Counting Commission shall be established by the rules of procedure of the General Assembly.

12. Each Commission shall, by a majority vote of the members of the Commission, elect a chairperson of the Commission, who shall manage the current activities of the Commission.

#### **Article 75. Ensuring the normal operation of the General Assembly of Judges**

1. With a view to the complete and effective performance of the powers reserved thereto by the Constitution and this Code, the General Assembly may have service personnel.

## **CHAPTER 14 COMPOSITION AND POWERS OF THE SUPREME JUDICIAL COUNCIL**

### **Article 76. The Supreme Judicial Council**

1. In accordance with Article 173 of the Constitution of the Republic of Armenia, the Supreme Judicial Council shall be an independent state body guaranteeing the independence of courts and judges.

### **Article 77. Requirements for members of the Supreme Judicial Council**

1. In accordance with part 1 of Article 174 of the Constitution of the Republic of Armenia, the Supreme Judicial Council shall be composed of ten members.

2. In accordance with part 2 of Article 174 of the Constitution of the Republic of Armenia, a member elected by the General Assembly of Judges of the Supreme Judicial Council may be a judge having at least 10 years of experience as a judge. A member elected by the General Assembly may not act as chairperson of a court or chairperson of a chamber of the Court of Cassation of the Republic of Armenia.

3. In accordance with part 3 of Article 174 of the Constitution of the Republic of Armenia, persons who are academic lawyers and other prominent lawyers holding citizenship of only the Republic of Armenia, having the right of suffrage, with high professional qualities and at least fifteen years of professional work experience may be members of the Supreme Judicial Council elected by the National Assembly of the Republic of Armenia (hereinafter referred to as the National Assembly). When determining the whether a person is a prominent lawyer, his or her participation in a significant legal event shall be taken into account.

4. The position of a member of the Supreme Judicial Council elected by the National Assembly shall be a state position.

5. A person who is a judge or holds a position in state or local self-government bodies or has engaged in political activities within the past five years may not be elected a member of the Supreme Judicial Council by the National Assembly.

6. A person may not be elected as a member of the Supreme Judicial Council by the National Assembly, if:

- (1) he or she has been convicted of a crime, irrespective of whether the conviction has been expunged or cancelled;
- (2) his or her criminal prosecution has been terminated on non-acquittal grounds;
- (3) he or she is currently subject to criminal prosecution;
- (4) he or she has a physical impairment or disease hindering his or her appointment to the position of a judge.

### **Article 78. Incompatibility requirements for a member of the Supreme Judicial Council elected by the National Assembly**

1. A member of the Supreme Judicial Council elected by the National Assembly may not, upon being elected, engage in political activities, hold any position in state or local self-government bodies, a position in commercial organisations, perform paid work, except for scientific, educational and creative work.



**Article 79. The procedure for election of members of the Supreme Judicial Council**

1. Five members of the Supreme Judicial Council shall be elected by the General Assembly according to the following groups:

- (1) two members from a court of first instance of general jurisdiction with civil law and criminal law specialisations respectively;
- (2) one member from the Administrative Court;
- (3) one member from the courts of appeal;
- (4) one member from the Court of Cassation.

2. During the election of members of the Supreme Judicial Council elected by the General Assembly equal, to the extent possible, inclusion of judges having adequate specialisation shall be ensured. Members elected from the courts of appeal and the Court of Cassation may not be judges with the same specialisation.

3. The workload of judges, who are members of the Supreme Judicial Council, shall be subject to reduction in the manner prescribed by this Code.

4. When there is a vacant position of a member of Supreme Judicial Council elected by the General Assembly, a new member shall be elected in accordance with the procedure provided for by this Code within a period of two months, and if the number of members of the Supreme Judicial Council elected by the General Assembly is less than four, then within a period of one week.

5. Where a member of the Supreme Judicial Council elected by the General Assembly is transferred to another court or does not exercise his or her powers of a judge as a consequence of abolishment of the court or reduction in the number of judges, he or she shall continue to hold the office in capacity of a member of the Supreme Judicial Council.

6. Five members of the Supreme Judicial Council shall, in accordance with part 3 of Article 174 of the Constitution of the Republic of Armenia, be elected by the National Assembly, by at least three fifths of votes of the total number of Deputies.

7. Candidacies of the members of the Supreme Judicial Council elected by the National Assembly shall be proposed to the National Assembly by the Chamber of Advocates of the Republic of Armenia, higher education institutions and professional non-governmental organisations. The Chamber of Advocates of the Republic of Armenia, higher education institutions and professional non-governmental organisations may propose to the National Assembly the candidacies of up to two persons.

8. Details of election of members of the Supreme Judicial Council elected by the National Assembly shall be prescribed by Constitutional Law of the Republic of Armenia "Rules of Procedure of the National Assembly".

**Article 80. Voting procedure for election of judge members of the Supreme Judicial Council**

1. Voting during election of members of the Supreme Judicial Council elected by the General Assembly shall be secret and shall be conducted using ballot papers. Ballot papers shall be prepared according to the groups provided for by part 1 of Article 79 of this Code. Ballot papers shall contain the names of all judges meeting the requirements set forth in part 2

of Article 77 of this Code. The procedure for preparing ballot papers and the requirements for ballot papers shall be prescribed by the General Assembly.

2. A judge shall have one vote when voting with each ballot paper. For each position, a judge shall be deemed elected where he or she receives the highest number of votes of the judges having participated in the voting.

3. The term of powers of a member of the Supreme Judicial Council elected by the General Assembly shall commence upon entry into force of the decision of the General Assembly. The decision of the General Assembly shall enter into force upon promulgation in the session room.

#### **Article 81. The Chairperson of the Supreme Judicial Council**

1. The Supreme Judicial Council shall elect, from among its members, Chairperson of the Council in rotation from among members elected by the General Assembly and by the National Assembly of the Republic of Armenia.

2. The candidate having received the highest number of votes of members present at the session shall be deemed elected. A member of the Supreme Judicial Council shall have no right to abstain or to refuse to vote.

3. The term of office of the Chairperson of the Supreme Judicial Council shall be two and a half years. The election of the new Chairperson of the Supreme Judicial Council shall be carried out no earlier than within a period of three months preceding and no later than one day before the expiry of powers of the previous Chairperson.

4. The Chairperson of the Supreme Judicial Council shall convene and preside sessions of the Supreme Judicial Council, sign letters addressed to state and local self-government bodies, officials or other persons on behalf of the Supreme Judicial Council, perform other functions aimed at ensuring normal operation of the Supreme Judicial Council.

5. In case of early termination of powers of the Chairperson of the Supreme Judicial Council, election of the new Chairperson is carried out as prescribed by this Article within a period of 15 days.

6. Based on whether the previous Chairperson of the Supreme Judicial Council was elected by the General Assembly or the National Assembly, the election of the new Chairperson shall be carried out by ensuring rotation between members elected by the General Assembly and members elected by the National Assembly of the Republic of Armenia.

7. Until the time of election of the new Chairperson of the Supreme Judicial Council, the powers of the latter shall be temporarily exercised by the member, who is senior by age, from among members elected by the General Assembly or the National Assembly based on whether the previous Chairperson was elected by the General Assembly or the National Assembly and based on the necessity to ensure the same rotation.

#### **Article 82. Imposed and automatic termination of powers of a member of the Supreme Judicial Council**

1. The cases of automatic termination of powers of a member of the Supreme Judicial Council shall be the following:

(1) expiry of the term of powers;

(2) loss of the citizenship of the Republic of Armenia or acquisition of citizenship of another state;

- (3) entry into legal force of a court judgement of conviction rendered in his or her regard or termination of his or her criminal prosecution on a non-acquittal ground;
- (4) entry into legal force of a court judgement declaring him or her as having no legal capacity, as having limited legal capacity, as missing or as dead;
- (5) his or her resignation;
- (6) death;
- (7) in case of being a judge, imposed or automatic termination of powers of the latter.

2. The powers of a member of the Supreme Judicial Council shall terminate imposingly where:

- (1) he or she violates the requirements regarding incompatibility;
- (2) he or she engages in political activities;
- (3) it is impossible for him or her to perform his or her official duties due to temporary incapacity for work for over four subsequent months or over six months in a calendar year, or he or she, after being elected, acquires a physical impairment or contracts a disease hindering his or her appointment to the position;
- (4) he or she fails, without a good reason, to participate in activities of the Supreme Judicial Council three and more times consecutively within a period of three months;
- (5) he or she has refused to vote or abstained from voting once, except for the cases provided for by parts 2 and 3 of Article 84 of this Code.

3. In case of failure by the Chairperson of the Supreme Judicial Council to convene a session of the Supreme Judicial Council within the defined period, the session shall be convened by one third of the members of the Supreme Judicial Council.

4. In cases when powers of a member of the Supreme Judicial Council terminate imposingly, the Supreme Judicial Council shall adopt a decision.

5. In cases when powers of a member of the Supreme Judicial Council terminate imposingly, the Chairperson of the Council shall, within a period of twenty-four hours, apply to the National Assembly or the General Assembly for appointing a new member of the Supreme Judicial Council.

### **Article 83. The term of powers of a member of the Supreme Judicial Council**

1. Members of the Supreme Judicial Council shall be elected for a term of five years, without the right to be re-elected.

2. Members of the Supreme Judicial Council, shall, immediately upon being elected by the National Assembly, ceremoniously at the National Assembly, and the members elected by the General Assembly of the Judges, at a session of the General Assembly of the Judges, take an oath individually, with each member reading the following text of the oath, whereafter the member shall sign under the text read out:

"Taking a high position as a member of the Supreme Judicial Council, I swear in front of the people of the Republic of Armenia to perform my duties in compliance with the Constitution and laws of the Republic of Armenia, to be impartial and of principle, just and humane, inviolately follow all the requirements for a status of a member of the Supreme Judicial Council, ensuring the rule of law, guaranteeing independence of courts and judges and keeping the reputation of the Supreme Judicial Council high."

3. The powers of a member of the Supreme Judicial Council elected by the General Assembly shall terminate atomically on the day following the end of the fifth year after the decision rendered under Article 80 of this Code has entered into force.

**Article 84. Participation of a member of the Supreme Judicial Council in decision-making**

1. Each member of the Supreme Judicial Council shall have one vote during voting, unless otherwise provided for by this Code.

2. A member of the Supreme Judicial Council elected by the General Assembly shall not participate in the decision-making, voting, a part of the session, which refer to:

(1) giving consent to imposed termination by the Supreme Judicial Council of his or her powers as a judge or powers as a judge of his or her close relative, or to initiating criminal prosecution against him or her or against a judge, being his or her close relative, or depriving him or her or a judge, being his or her close relative, of liberty;

(2) imposing disciplinary action against him or her or a judge, being his or her close relative;

(3) consideration of his or her candidacy or the candidacy of his or her close relative for nominating as a court chairperson, as chairperson of a chamber of the Court of Cassation or as a judge of another court, presenting as a judge of the Court of Cassation, his or her secondment or the secondment of his or her close relative to another court, as well as submission of proposal on exchange of positions with another judge;

(4) his or her or his or her close relative's inclusion in or exclusion from the list of judge candidates or the list of judge candidates for promotion;

(5) consideration of complaints filed by him or her or his or her close relatives against decisions of the Evaluation Commission.

3. A member of the Supreme Judicial Council elected by the National Assembly shall not participate in the decision-making, voting, a part of the session, which refer to:

(1) his or her or his or her close relative's inclusion in or exclusion from the list of judge candidates or the list of judge candidates for promotion;

(2) proposal to appoint him or her or his or her close relative to the position of a judge;

(3) rendering of a decision on imposing disciplinary action against, imposed termination of powers of, giving consent to institution of criminal prosecution against or deprivation of liberty of a judge being his or her close relative;

(4) consideration of complaints filed by his or her close relative against decisions of the Evaluation Commission.

4. A member of the Supreme Judicial Council shall be obliged to inform the Supreme Judicial Council in writing in advance about his or her close relatives regarding whom the Supreme Judicial Council is to render a decision or carry out voting.

5. The Chairperson of the Supreme Judicial Council shall, at the session of the Council, clarify existence of circumstances ruling out presence of a member of the Council, provided for by parts 2 and 3 of this Article, and in case of existence thereof shall submit to the Supreme Judicial Council for consideration the issue of considering the issue to be examined by the Council in absence of the respective member.

**Article 85. Powers of the Supreme Judicial Council**

1. The Supreme Judicial Council shall:

- (1) compile and approve the list of judge candidates, including the list of judge candidates for promotion;
- (2) propose to the President of the Republic of Armenia the judge candidates subject to appointment, including those subject to appointment by way of promotion;
- (3) propose to the President of the Republic of Armenia the candidates for chairpersons of courts and the candidates for chairpersons of chambers of the Court of Cassation, subject to appointment;
- (4) propose to the National Assembly of the Republic of Armenia candidates for judges and for the Chairperson of the Court of Cassation of the Republic of Armenia;
- (5) decide on the issue of secondment of judges to another court;
- (6) decide on the issue of giving consent to initiating criminal prosecution against a judge or depriving him or her of liberty in connection with the exercise of his or her powers;
- (7) decide on the issue of imposing disciplinary action against a judge;
- (8) decide on the issue of imposed or automatic termination of the powers of judges;
- (9) approve its estimates of expenses and those of the courts and submit them to the Government of the Republic of Armenia for including them in the draft State Budget as prescribed by law;
- (10) imposingly terminate the powers of a member of the Supreme Judicial Council;
- (11) form its staff in compliance with law by approving the structure of the staff, the list of positions;
- (12) examine each issue related to or endangering the independence of courts and judges, and submit recommendations to the competent bodies with regard to the solution thereof at its own initiative or on the proposal of other persons;
- (13) submit recommendations to the competent state bodies on the improvement of laws and other legal acts pertaining to the judiciary;
- (14) provide an opinion on draft regulatory acts pertaining to the judiciary;
- (15) define the structure of the official website of the judiciary, the procedure for maintenance thereof, other information posted on the website, the procedure for publishing judicial acts on the official website of the judiciary of the Republic of Armenia;
- (16) develop and approve the rules of cooperation with the mass media;
- (17) approve the documentation management rules of courts;
- (18) determine the seats of courts, which are not prescribed by law;
- (19) approve allocation of judges by seats;
- (20) approve the gown of judges and the list of standard furnishing of offices of judges;
- (21) approve the procedure for providing an official electronic mail to judges;

- (22) determine the cases of and the procedures for attaching additional secretaries and assistants to judges;
- (23) define the description and the procedure for issuance of seals, stamps of judges and of the Court of Cassation;
- (24) approve the procedure for training of judges;
- (25) prescribe the procedure for, timetable, methodology of the evaluation of performance of judges and other necessary details for the evaluation of performance of judges;
- (26) resolve disputes related to appeals against results of evaluation of performance of a judge;
- (27) approve the nominal list of judicial service positions, the number of staff positions and staff structure on the proposal of the Head of Staff of the Supreme Judicial Council;
- (28) distribute the means of its reserve fund and the reserve fund of the courts;
- (29) determine the specific percentages of cases assigned to judges;
- (30) determine the specific percentages of cases assigned to chairpersons of courts by courts, to chairpersons of chambers, judge members of the Supreme Judicial Council;
- (31) prescribe the procedure for distributing cases;
- (32) prescribe the procedure for re-distributing the cases assigned to a judge;
- (33) prescribe the procedure for drawing lots for judges exercising judicial control of pre-trial criminal proceedings;
- (34) prescribe the procedure for collecting and maintaining judicial statistics;
- (35) establish, according to the type of the court case, the form and the content of the statistical card of a court case, the list and the procedure for publication of the statistical data (information) subject to mandatory publication, description of the content of statistical reports;
- (36) prescribe the procedure for filling in the statistical card of a court case, for maintaining the judicial statistics, as well as may, based on the needs for efficient performance of functions of the judiciary, define additional statistical classifiers for maintenance of judicial statistics;
- (37) decide on the issues of transfer of a judge from one court of the same instance to another court, from a seat of the same court to another seat, exchange of positions of judges of different courts of the first instance;
- (38) prescribe the procedure for granting a regular annual leave to judges;
- (39) resolve disputes related to granting of a leave and refusal of consent to participation of a judge in educational programmes;
- (40) establish the form of the written qualification examination, the minimum requirements for the structure and the content of the examination questions, the procedure for organising, conducting and evaluating the written examination and the interview;
- (41) prescribe the procedure for preparing ballot papers necessary for voting in the Supreme Judicial Council and the requirements for them;

- (42) prescribe the procedure for depersonalising personal data;
  - (43) approve the procedure for appointing a translator [translator/interpreter];
  - (44) prescribe the procedure for provision of logistic support to the staffs of courts by the Staff of the Supreme Judicial Council, for exchange of information between the staffs of the Supreme Judicial Council and courts.
2. When exercising its powers provided for by points 15, 17, 21-22, 24-25, 31-36, 40-44 of part 1 of this Article, the Supreme Judicial Council shall adopt secondary regulatory legal acts.

## **CHAPTER 15 ORGANISATION OF ACTIVITIES OF THE SUPREME JUDICIAL COUNCIL**

### **Article 86. Sessions of the Supreme Judicial Council**

1. The Supreme Judicial Council shall carry out its activities through sessions. When considering issues regarding imposition of disciplinary action against a judge, termination of powers of a judge, termination of powers of a member of the Supreme Judicial Council, appeals brought against decisions of the Evaluation Commission, the Supreme Judicial Council shall act as a court in the manner prescribed by this Code.
2. The sessions of the Supreme Judicial Council shall be convened by the Chairperson of the Supreme Judicial Council at his or her initiative or at the request of at least one third of the members of the Council. A proposal to convene a session of the Supreme Judicial Council may be made by the General Assembly, as well as by a judge in connection with an issue related to or endangering his or her independence.
3. Other persons may be invited to sessions of the Supreme Judicial Council upon the recommendation of the Chairperson or at least one third of members of the Council.
4. In the cases of acting as a court, as well as in cases of compiling and approving the lists of judge candidates, among them the lists of judge candidates for promotion, proposing candidates for judges subject to appointment to the President of the Republic, the sessions of the Supreme Judicial Council shall be open to public, if the Supreme Judicial Council does not take a decision to hold closed sessions.
5. In the cases not provided for by part 4 of this Article, the Supreme Judicial Council shall hold closed sessions, if the Supreme Judicial Council does not take a decision to hold sessions open to public.

### **Article 87. Convening and holding of sessions of the Supreme Judicial Council**

1. The Chairperson of the Supreme Judicial Council shall convene and hold a session of the Supreme Judicial Council within a period of two weeks from the point when an issue requiring a Council decision arises. In the case of examination of the issue of giving consent to initiating criminal prosecution against a judge or to depriving him or her of liberty in connection with the exercise of his or her powers, sessions should be convened as soon as possible but no later than on the following day of filing a request with the Council.
2. Members of the Supreme Judicial Council working in marzes shall be reimbursed for the following expenses in connection with participation in a session of the Council: overnight accommodation fee, travel expenses for leaving the main workplace for another location and returning.

3. The procedure for reimbursement of expenses incurred by members of the Supreme Judicial Council in connection with participation in a session of the Council shall be prescribed by the Government of the Republic of Armenia.

4. The Staff of the Supreme Judicial Council shall notify, within a reasonable time period, the agenda, time and venue of the session of the Supreme Judicial Council to the members of the Supreme Judicial Council, other persons participating in the consideration of an issue. Members of the Supreme Judicial Council may be notified of the session via the official electronic mail, the procedure for provision of which shall be prescribed by the Supreme Judicial Council.

**Article 88. Quorum of sessions of the Supreme Judicial Council and postponement of the sessions**

1. A session of the Supreme Judicial Council shall have quorum in case of presence of two thirds of the members of the Council.

2. A session of the Supreme Judicial Council may be postponed in the following cases:

(1) failure of a member of the Supreme Judicial Council to appear at a session of the Council for good reason, taking account of the necessity to secure a quorum;

(2) working day has ended;

(3) failure of witnesses, experts to appear;

(4) where valid circumstances of other nature exist, which render consideration of the given issue in the given session impossible;

3. The decision to postpone a session of the Supreme Judicial Council shall be taken by majority of votes of members present at the session.

**Article 89. Taking minutes of sessions of the Supreme Judicial Council**

1. Minutes of sessions of the Supreme Judicial Council shall be taken by means of taking simple paper-based minutes, and, where a computer recording system is installed, the minutes shall be taken by audio recording and simultaneously by taking summary notes through a computer. Summary notes shall be notes about actions taking place during the sessions. The audio record shall be stored on a laser storage medium. The summary notes shall be stored on paper endorsed by the signature of the person taking the minutes.

2. Simple paper-based minutes of a session of the Supreme Judicial Council shall indicate:

(1) year, month, date and venue of the session;

(2) time of opening and closing the session;

(3) names of members of the Supreme Judicial Council and the secretary of the session, who are present at the session;

(4) information on the issue considered by the Supreme Judicial Council;

(5) information on the attendance of persons participating in the session of the Supreme Judicial Council;

(6) decisions taken by the Supreme Judicial Council without leaving the session hall and instructions of the chairperson of the session;



- (7) statements, objections, motions and explanations of persons participating in the session;
  - (8) in case of acting as a court, testimonies of witnesses, oral clarifications of experts on their opinions, information on publication, inspection and examination of evidence;
  - (9) content of decisions stated in the form of procedural decisions of the Supreme Judicial Council;
  - (10) concluding part of decisions of the Supreme Judicial Council;
  - (11) where a member of the Supreme Judicial Council delivers a special opinion, a note on existence of the special opinion.
3. Upon the request of a participant in the session of the Supreme Judicial Council or the person presiding over the session, the simple paper-based minutes shall include a word-by-word reproduction of the statement made during the session which is deemed important.
  4. Simple paper-based minutes shall be signed by the person presiding over the session and the person taking the minutes.
  5. A copy of the storage medium of computer recording of minutes of the session of the Supreme Judicial Council, together with the summary notes thereof, shall, upon the written request of persons participating in the session of the Council, be provided to them immediately after the session. Where simple paper-based minutes of the session of the Supreme Judicial Council are taken, a copy of the written minutes shall, upon the written request of persons participating in the session, be provided thereto no later than on the following day.
  6. Members of the Supreme Judicial Council and persons participating in the session of the Council shall have the right to become familiar with the simple paper-based minutes and submit comments on completeness or accuracy thereof.
  7. Comments concerning the minutes shall be reviewed by the person presiding over the session within a three-day period following the submission thereof.
  8. The person presiding over the session shall take a decision on accepting or rejecting the comments concerning the minutes. The submitted comments concerning the minutes shall be attached and maintained in the respective file.

**Article 90. Procedure for consideration of issues in the Supreme Judicial Council**

1. Sessions of the Supreme Judicial Council shall be presided over by the Chairperson of the Council, or in case of his or her absence or impossibility to preside over the session, by the member of the Supreme Judicial Council, who is senior by age.
2. The person presiding over the session shall open the session of the Supreme Judicial Council by announcing the issue that has to be considered and the reporting persons, as well as, shall, with the consent of members of the Council, define the procedure for examining issues included in the session agenda, and shall administer the session.\*
3. A session of the Supreme Judicial Council shall commence with the report of the Chairperson of the Council or another member of the Council. Members of the Supreme Judicial Council shall have the right to pose questions to the reporter.
4. Members of the Supreme Judicial Council shall have the right to become familiar with materials related to issues examined in the session, receive those materials, deliver speeches

on any issue considered in the Council, ask questions, make recommendations and file objections.

5. Members of the Supreme Judicial Council shall be obliged to participate in sessions of the Council, to vote for or against each issue suggested for examination, except for cases provided for by Article 84 of this Code, to participate in the voting with ballot papers.

#### **Article 91. Acts of the Supreme Judicial Council and procedure for adopting them**

1. The Supreme Judicial Council shall adopt decisions when exercising its powers provided for by the Constitution of the Republic of Armenia and this Code.

2. With a view to preparing issues to be examined by it, as well as in connection with other issues related to the organisation of its activities, the Supreme Judicial Council shall adopt procedural decisions. Procedural decisions shall be adopted by open vote by majority of votes of the Council members having taken part in the voting.

3. Decisions of the Supreme Judicial Council shall be adopted by majority of the votes of the total number of Council members, except for the cases provided for by this Code.

4. In cases of acting as a court, as well as in cases of compiling and approving the lists of judge candidates, among them the lists of candidates for promotion, proposing candidates for judges subject to appointment to the President of the Republic, the decisions of the Supreme Judicial Council shall be adopted by at least two thirds of the votes of all members of the Council. Closed voting shall be held in such cases.

5. A member of the Supreme Judicial Council shall have no right to abstain or to refuse to vote. In the event of a tie, the issue included on the agenda shall be deemed not approved or not satisfied.

6. A member of the Supreme Judicial Council may provide a special opinion on any decision adopted in the Supreme Judicial Council. Where a member of the Supreme Judicial Council holds a special opinion on the decision, a relevant note on thereon shall be made in the decision of the Supreme Judicial Council, and the special opinion shall be attached to the decision. In case of providing a special opinion, a member of the Supreme Judicial Council shall not sign the decision of the Supreme Judicial Council.

7. Secondary regulatory acts adopted by the Supreme Judicial Council shall enter into force within the time limits prescribed therein, but no earlier than on the day following their official promulgation, except for the decisions of the Supreme Judicial Council made in case of acting as a court.

8. Procedural and individual decisions of the Supreme Judicial Council shall enter into force upon adoption.

9. Decisions of the Supreme Judicial Council shall be subject to publication on the official website of the judiciary except for the decisions containing a secret protected by law.

#### **Article 92. Staff of the Supreme Judicial Council**

1. The Supreme Judicial Council shall form its staff for the purpose of completely and efficiently exercising the powers vested in it by the Constitution and this Code.

2. The Staff of the Supreme Judicial Council shall be headed by the Head of Staff, which shall be appointed and dismissed by the Supreme Judicial Council.

3. The Staff of the Supreme Judicial Council shall:

- (1) arrange and organise sessions of the Supreme Judicial Council;
- (2) provide materials concerning issues considered in the Supreme Judicial Council to the members of the Supreme Judicial Council, other persons participating in examination of issues at the Council session within the time limits prescribed by this Code;
- (3) take minutes of sessions of the Supreme Judicial Council;
- (4) draft decisions and other legal acts adopted by the Supreme Judicial Council;
- (5) deliver and publish legal acts adopted by the Supreme Judicial Council;
- (6) maintain and summarise judicial statistics, summarise judicial practice;
- (7) ensure maintenance of the official website of the judiciary and implementation of other routine works on servicing the website;
- (8) organise archive keeping;
- (9) perform assignments issued by the decision of the Supreme Judicial Council;
- (10) perform other functions provided for by its Charter.

**Article 93. Financing of the Supreme Judicial Council**

1. The Supreme Judicial Council shall be financed from the state budget funds.

**CHAPTER 16**

**COMPILATION AND APPROVAL OF THE LIST OF JUDGE CANDIDATES PROCEDURE FOR APPOINTING JUDGES AND CHAIRPERSONS OF COURTS OF FIRST INSTANCE**

**Article 94. Decision regarding regular and extraordinary completion of the list of judge candidates**

1. The Supreme Judicial Council shall, before 1 September of each year, calculate the required number of judges for filling the vacant positions for judges in the courts of first instance for the next two years and, based thereon, shall render a decision on the necessity for completing the relevant section of specialisation in the list of judge candidates, if the number of candidates in the list of judge candidates under the sections of civil and criminal specialisations, respectively, does not exceed the number foreseen for vacant positions for the next two years by four, and under the section of administrative specialisation — by two.
2. The calculation of the number of candidates required for completing the list of judge candidates shall be carried out considering that the given number will exceed the amount required for completion under the sections of criminal and civil specialisations during the next two years by four candidates, and under the section of administrative specialisation — by two candidates.
3. The Staff of the Supreme Judicial Council shall, not later than before 10 September, make an announcement in press with a print run of at least 3,000 copies, on the official website for public notifications and on the official website of the judiciary, with regard to carrying out qualification checks for the purpose of completing the list of judge candidates, by specifying the time limits and venue for accepting applications, the number of vacancies to be filled by the sections of specialisation of the list of judge candidates.

4. Where before regular completion provided for in part 1 of this Article, it becomes obvious that the number of persons in the relevant section of specialisation of the list of judge candidates is less than the foreseen number of vacancies for judges with relevant specialisation for the current or the following year, or is equal to that number, the Supreme Judicial Council may render a decision on the necessity for extraordinary completion of the relevant section of specialisation of the list of judge candidates in the number provided for in part 2 of this Article. Where the number of persons in the relevant section of specialisation of the list of judge candidates is less than the foreseen number of vacancies for judges with relevant specialisation for the current year, the number of relevant positions remaining vacant shall also be included in the calculation carried out in accordance with part 2 of this Article. Extraordinary completion may not be carried out, where not more than six months are left before the time limits provided for by part 1 of this Article for regular completion.

5. In case of completing the list of judge candidates as provided for by part 2 of this Article, the regular completion provided for by part 1 of this Article shall be carried out starting from the year following the extraordinary completion.

6. Extraordinary completion of the list of judge candidates shall be carried out as prescribed by this Code for regular completion, by maintaining, in the actions following the rendering of the decision on extraordinary completion, the proportionality of time limits prescribed by this Code for regular completion.

#### **Article 95. Qualification checks**

1. Qualification checks shall consist of submission of applications, a written examination, a psychological test and an interview conducted by the Supreme Judicial Council.

#### **Article 96. Requirements for judge candidates**

1. Citizens of only the Republic of Armenia between the ages of 28 and 60, who have the right of suffrage, have obtained a Bachelor's Degree or a qualification degree of a certified specialist of higher legal education in the Republic of Armenia or have obtained a similar degree in a foreign state, the recognition and approval of equivalence of which have been carried out in the Republic of Armenia as prescribed by law, have a command of Armenian, have at least 3 years of service record of professional activities, and where limitations referred to in part 1 of Article 111 of this Code do not exist, may participate in qualification checks.

#### **Article 97. Submission of applications**

1. Applications for participation in qualification checks shall be submitted to the Staff of the Supreme Judicial Council within a period of one month starting from the day following the day of publication of the decision on the qualification check.

2. Persons having submitted applications shall, together with the application, submit their consent to obtaining necessary information about them from state bodies and officials, including information comprising a medical secret.

3. A contender shall be obliged to submit the following attached to the application:

- (1) an identification document;
- (2) five coloured pictures;
- (3) public service number;
- (4) document attesting to the completion of higher legal education;

(5) card containing his or her biographical data, with the description of the professional legal activities carried out by him or her after obtaining a lawyer's degree, by attaching the relevant evidence (including job description or other documents attesting to the work duties in the occupation deemed a service record of a legal profession);

(6) document certifying completion of the compulsory military service or exemption or deferment from the compulsory military service as provided for by law (in case the person submitting the application is male);

(7) document issued as prescribed by the Government of the Republic of Armenia, certifying the absence of physical impairments and diseases hindering the appointment to the position of a judge.

4. The contender shall be obliged to submit additional documents specified by the Supreme Judicial Council.

5. The contender shall have the right to submit also letters of recommendation in the form prescribed by the Supreme Judicial Council.

6. State duty shall be levied on the contender in the manner prescribed by law.

**Article 98. Checking of application and documents attached thereto Refusal to accept an application**

1. The Staff of the Supreme Judicial Council shall be obliged to check the authenticity of documents attached to the application. The Staff of the Supreme Judicial Council shall clarify the existence or absence of conviction of the applicant through respective enquiries.

2. The Supreme Judicial Council shall refuse to accept an application where it has been submitted in violation of the time limits prescribed by this Code or does not meet the requirements provided for by this Code. Such applications shall be subject to return to the applicant by the Staff of the Supreme Judicial Council within three working days.

3. The Staff of the Supreme Judicial Council may consider the missing of the time limits for the submission of the application as valid, where the delay was due to circumstances beyond the control of the person submitting the application, and if not less than one week is left from the point of submission of the application till the commencement of qualification checks.

4. The applicant may appeal the decision on refusal to accept the application with the Supreme Judicial Council or with the Administrative Court within three working days following the refusal. The case shall be examined and disposed of within three working days upon receipt of the application of appeal.

5. Appealing, through judicial procedure, against the refusal to accept an application shall not suspend the time limits and the procedure for accepting applications and for conducting qualification checks.

6. In case the refusal to accept an application is recognised as unlawful by the court, the applicant shall have the right to participate in qualification checks, and if the qualification checks have commenced, then the person having submitted the application shall have the right to participate in the next qualification checks without submitting a new application.

**Article 99. Organisation of qualification checks**

1. The Supreme Judicial Council shall, no later than before 15 September, define and publish the form of the written qualification examination, the minimum requirements for the structure and content of examination questions, the procedure for arranging and holding the

written examination and the interview at the Supreme Judicial Council, including the procedure for distribution of examination materials, process of the examination, use of legal or other documents or technical means, checking of examination papers and calculation of the scores, the criteria for evaluating the results of written examination, the minimum passing score based on the results of the written examination (which may not be less than forty per cent of total scores), as well as the procedure for making inquiries, in accordance with part 5 of Article 105 of this Code, with regard to the contenders proposed to the Supreme Judicial Council, the list of bodies involved in inquiry and the form of written questionnaires used for the purposes of inquiry.

2. The Supreme Judicial Council shall select a corresponding specialist(s) or a specialised organisation for developing the questions of written examination, as well as the psychological test. The person developing the written examination questions shall bear responsibility for keeping the confidentiality of questions of the written examination until the written qualification examination is held. Developing of questions of the written examination may not be assigned to members or the Staff of the Supreme Judicial Council. Persons having developed the questions of the written examination may not be included in the commissions for evaluation of and appeals against results of the written examinations held on the basis of those questions.

3. Organisational activities in relation to the conduct of qualification checks shall be carried out by the Staff of the Supreme Judicial Council.

#### **Article 100. Publication of the time, venue and results of conducting the qualification checks**

1. The scores obtained by the contenders based on the results of the written qualification examination shall be published on the official website for public notifications and on the official website of the judiciary immediately after summarisation of the results.

2. The results of the interview conducted by the Supreme Judicial Council shall be published on the official website for public notifications and on the official website of the judiciary immediately after the summarisation of the results.

3. The announcement on the time and venue of the written qualification examination and the interview conducted by the Supreme Judicial Council shall be published on the official website for public notifications and on the official website of the judiciary at least 10 days before the day of the written qualification examination or the interview.

#### **Article 101. Transparency of qualification checks**

1. The Staff of the Supreme Judicial Council shall ensure live broadcast of the entire process of the written examination and the interview conducted by the Supreme Judicial Council in an area located outside the examination room.

2. The entire process of the written examination, as well as of the interview conducted by the Supreme Judicial Council, except for the final discussion of the results of the interview among the members of the Council, shall be audio-video recorded by the Staff of the Supreme Judicial Council.

3. A person having participated in the qualification checks shall have the right to receive, as prescribed by the Law of the Republic of Armenia "On freedom of information", a duplicate copy of the audio-video recording of the entire process of the written examination and the part of the interview at the Supreme Judicial Council relating to him or her, as well as a carbon copy of any work checked as a result of the written qualification examination.

4. One representative from the Staff of the President of the Republic of Armenia, one representative appointed by the Minister of Justice, up to three advocates appointed by the

Chamber of Advocates of the Republic of Armenia and up to five representatives of non-governmental organisations operating in the field of law and having submitted a relevant application to the Supreme Judicial Council at least 3 working days before the conduct of the qualification checks, based on priority of submission of the applications, may be present at the written qualification examination and the interview conducted by the Supreme Judicial Council (except for the final discussion of the results of the interview among the members of the Council) and follow their process. The Staff of the Supreme Judicial Council shall be obliged to provide the above-mentioned persons with conditions necessary for following the process of the written examination and interview in a way that does not distort the normal course thereof. The process of the interview of the contender may be audio, video recorded only upon his or her consent.

#### **Article 102. The process of written examination**

1. The written examination for qualification shall be held through written tasks in respect of the fields of criminal, civil or administrative specialisation, respectively, which contain legal tasks requiring analysis and application of the norms of law pertaining to the introduced factual circumstances.
2. Corresponding scores shall be given for revealing, analysing and granting legal qualification to each circumstance introduced in the legal task, depending on the complexity of circumstances.
3. During the written examination for qualification, the contenders may be provided with materials regarding the factual circumstances of the tasks assigned, as well as with theoretical literature and legal acts for the solution of the task, the extent whereof shall be determined by the specialist(s) or specialised organisation selected as prescribed by part 2 of Article 99 of this Code.
4. The written tasks shall be also aimed at checking the analytical skills in addition to the academic knowledge.
5. The Supreme Judicial Council shall establish the minimum quantity of options subject to elaboration, for holding the written examination.
6. The Staff of the Supreme Judicial Council shall publish at least one sample of tasks of the written examination provided for by this Article, on the official website for public notifications and on the official Internet website of the judiciary at least 10 days prior to the day of holding the written examination.
7. The Supreme Judicial Council may establish a procedure for holding written examinations by technical means.

#### **Article 103. Checking, evaluating and appealing against the results of written examination**

1. An Evaluation Commission for relevant specialisation shall be formed for the purpose of checking and evaluating the written examination papers, while an Appellate Commission for relevant specialisation shall be formed for the purpose of resolving issues in respect of appealing against the results of examination.
2. The Evaluation Commission shall be composed of five judges of relevant specialisation and two academic lawyers specialised in relevant field of law.
3. The Appellate Commission shall be composed of two judges of relevant specialisation and one academic lawyer specialised in relevant field of law.

4. With a view of being involved in the Evaluation Commission and Appellate Commission, the Supreme Judicial Council shall, not earlier than four days prior to holding the written examination, propose 10 judges for each specialisation upon the consent thereof, whereas the Minister of Justice shall propose at least four academic lawyers specialised in relevant field of law upon the consent thereof,.
5. Members of the Evaluation Commissions shall be selected, by drawing lots, from among the mentioned judges and academic lawyers on the day of holding the written examination — immediately after completion of the examination. The lots shall be drawn by the Supreme Judicial Council.
6. The activities of the Evaluation Commission and Appellate Commission shall be carried out confidentially and behind closed doors. The names of the members of the Evaluation Commission and Appellate Commission shall not be subject to publication prior to publication of the results of examination or appeal, respectively.
7. The members of the Supreme Judicial Council, chairpersons of courts, chairpersons of chambers and members of commissions of the General Meeting may not be involved in the composition of the Evaluation Commission and Appellate Commission.
8. The Staff of the Supreme Judicial Council shall pay compensation to the members of the Evaluation Commission and Appellate Commission from the State Budget of the Republic of Armenia in the amount specified by the Government of the Republic of Armenia.
9. The member of the Evaluation Commission or Appellate Commission shall be obliged to inform in writing the Supreme Judicial Council or the Minister of Justice, respectively, where he or she is aware of the circumstances that may give rise to a reasonable doubt as to the impartiality thereof.
10. The powers of the judge - member of the Evaluation Commission and Appellate Commission shall be early terminated by the Supreme Judicial Council in case his or her powers discontinue in the office of a judge or are suspended.
11. The powers of the member of the Evaluation Commission or Appellate Commission shall be early terminated by the Supreme Judicial Council or the Minister of Justice, respectively also:
  - (1) where the person appealing against the results of the written examination is the close relative of a member of the Appellate Commission;
  - (2) where the Supreme Judicial Council or the Minister of Justice respectively, having examined the circumstances introduced in accordance with part 9 of this Article, considers that they may give rise to a reasonable doubt as to the impartiality of the member of the Evaluation Commission or Appellate Commission.
12. In case of early termination of powers of a member of the Evaluation Commission and Appellate Commission the new member shall be appointed under the procedure established for the appointment of relevant member of the Commission.
13. The Evaluation Commission and Appellate Commission shall be headed by persons elected from among the members of commissions, by overall majority of votes of the members.
14. The Evaluation Commission and the Appellate Commission shall be dissolved after the expiry of the time limit for summarising and appealing against the results of the written examination respectively.



15. The computer-based check of the written papers shall be carried out by all members of the Evaluation Commission in accordance with the procedure established by the Supreme Judicial Council. Each member of the Evaluation Commission shall carry out computer-based check of all written papers by sequence, evaluate them and make relevant notes supporting the grade entered thereby in the electronic checklist of the written paper concerned.
16. The results of written papers shall be evaluated in a computer-based manner. The final grade of the written paper shall be determined based on the arithmetical average of the grades delivered by all members of all evaluation commissions.
17. The Evaluation Commission shall check and evaluate the papers of written examination anonymously.
18. The members of the Evaluation Commission and Appellate Commission must be provided with answer patterns guiding the check of papers.
19. The Supreme Judicial Council shall set criteria for the evaluation of written papers and based thereon — the form of the electronic checklist for written papers. Each member of the Evaluation Commission shall make notes supporting the grade entered thereby in the electronic checklist of the written paper.
20. Following the publication of the results of written examination and at the request of the person having taken the examination, the carbon copy of the evaluated written paper thereof shall, immediately but not later than the day following the date of submitting the application, be provided along with the electronic checklist.
21. An Appellate Commission comprised of two judges and one academic lawyer-member shall be selected by drawing lots, from among the candidates referred to in part 4 of this Article, within one working day following the publication of the results of written examination. The drawing lots shall be held by the Supreme Judicial Council. The same person may not act as a member of both the Evaluation Commission and Appellate Commission simultaneously.
22. The person having taken the written examination may, within five working days following the day of publication of the decision of Evaluation Commission, apply to the Appellate Commission, where he or she finds that the procedure for holding the examination has been violated, or disputes the examination grade.
23. When appealing against the procedure for holding examination or against the examination grade, the contender shall clearly indicate the circumstances underlying the complaint and the justifications thereof.
24. The written paper, the electronic checklist and the complaint shall be provided to the Appellate Commission anonymously.
25. When considering the complaint, the members of the Appellate Commission may, where necessary, invite and hear the members of the Evaluation Commission, other academic lawyers specialised in relevant field of law and the contender.
26. The decision on the complaint shall be taken within three working days following the day of receipt of the complaint.
27. The Appellate Commission shall examine the complaints within the scope of the grounds for and justifications of the complaint. The decisions taken upon the results of the complaint shall be reasoned. They shall be published immediately on the official website of the judiciary, by indicating the initial grades and those obtained as a result of appeal.
28. The decisions of the Appellate Commission may be appealed against to the Administrative Court only on the ground of violation of the procedure for holding the written

examination, the procedural norms on carrying out check, evaluation and appealing against the written papers.

29. The written examination and summarisation of the results thereof including appealing against thereof must be carried out within one month following the expiry of the time limit for accepting the entries but not later than before 1 December.

30. Check and evaluation of the results of written examination must be arranged so as to guarantee at least 8 working days for appealing against after the publication of the results of written examination.

31. Prior to taking a decision by the Appellate Commission, the contender shall have the right to participate in the next stage of examinations for qualification where it has already lunched.

#### **Article 104. Psychological test**

1. Contenders having obtained passing scores upon the results of written examination shall be obliged to take a psychological test aimed at checking the sense of responsibility, listening skills, self-control, moderate use of reputation (influence) and other non-professional features required for the activities of a judge.

2. In case the contender fails to take a psychological test he or she shall be deprived of the right to participate in the stage of interview.

3. The results of the psychological test shall be only of advisory nature, shall not be subject to publication and shall be provided only to the members of the Supreme Judicial Council before the completion of the final discussion following the interview. The results of the psychological test and the list of judge candidates shall be subject to destruction after having been approved.

4. Contenders shall have the right to get familiarised with the results of the psychological test.

#### **Article 105. Preparation of materials for holding an interview**

1. Within 10 working days following the day of expiry of the time limit provided for appealing against the results of written examination, the Staff of the Supreme Judicial Council shall, for the purpose of holding an interview, submit to the Supreme Judicial Council the list of contenders having obtained the highest total scores where the number thereof exceeds, by 50 per cent but not less than by 5 per cent (except where respective number of contenders have not obtained the necessary scores), the number of candidates necessary for filling vacant positions in a division of relevant specialisation of the list of judge candidates, based on the overall results of written examination. In case of availability of contenders with equal passing scores all these contenders shall be included in the list.

2. The Staff of the Supreme Judicial Council shall simultaneously publish the list of contenders submitted to the Supreme Judicial Council, on the official website for public notifications and on the official Internet website of the judiciary. Information regarding the education and post-graduate working activities of each contender shall also be published along with the list of contenders.

3. State bodies and officials possessing information on the given judge candidates, that gives rise to a reasonable doubt as to the reputation of the person concerned and proper performance thereby of the powers of a judge, shall be obliged to inform the Supreme Judicial Council thereon within two weeks following the day of publication of the list of contenders. State bodies and officials shall be obliged to provide the mentioned information also upon the request of the Supreme Judicial Council.

4. The contenders shall have the right to submit, within two weeks following the day of publication of the list, to the Supreme Judicial Council any document that may certify their professional experience and contribute, during the interview, to the evaluation of qualities and merits required for acting effectively in the office of a judge.

5. The Staff of the Supreme Judicial Council shall, under the procedure established by the Supreme Judicial Council, make written and oral inquiries to the workplace, higher educational institutions of the contender and other institutions related to the contender, regarding the professional qualities and personal features thereof, as well as shall receive personal data on the contender from tax authorities and other administrative bodies defined by the Supreme Judicial Council. The Staff of the Supreme Judicial Council shall, under the procedure established by the Supreme Judicial Council, also verify the authenticity of the documents submitted by the contender.

6. The Staff of the Supreme Judicial Council shall, within one month following the day of forwarding to the Supreme Judicial Council the list provided for by part 1 of this Article, submit the personal file of each contender to the Supreme Judicial Council, which must include the documents attached by the contender to the entry for participation in the examinations for qualification, the scores obtained as a result of written examination and the information received as prescribed by this Article.

7. The Staff of the Supreme Judicial Council shall ensure that all members of the Supreme Judicial Council get familiarised with the personal files of contenders.

8. Persons participating in the interview shall have the right to apply and get familiarised, within two working days following the day of submission of application, but not later than the day preceding the interview, with their personal files available at the Supreme Judicial Council.

#### **Article 106. Holding an interview**

1. The interview shall be aimed at revealing the qualities and merits necessary for acting effectively in the office of a judge through evaluation of the professional experience of the contender, his or her motivation to become a judge, awareness of the requirements of fundamental legal acts concerning the status of a judge, his or her personal features (particularly self-control, treatment, moderate use of reputation (influence), listening skills, communication skills, fairness, analytical skills, etc.).

2. The interview shall be comprised of three stages:

(1) study of the personal file and the past career history of each contender, for the purpose of presenting whereof one of the members of the Supreme Judicial Council shall act as a reporter. The contender shall have the right to deliver clarifications on the information contained in his or her personal file. The members of the Council may ask the contender questions in order to evaluate his or her professional experience, academic interests, his or her expectations and motivation in the office of a judge, other personal qualities and merits necessary for acting effectively in the office of a judge;

(2) analysis and delivery of the position by a contender in respect of a hypothetical issue related to the rules of conduct of a judge in order to evaluate the fundamental rules of conduct of a judge, as well as the requirements to a judge and other personal features important for acting as a judge;

(3) analysis and delivery of the position by a contender in respect of a brief legal issue (norm of law or of other legal act including hypothetical legal norm, position expressed in a judicial act, legal opinions expressed in a theory etc.) in the relevant field of specialisation, for the purpose of evaluating the skills of handling the situation spontaneously within a short period of time, self-

control, treatment, communication skills, analytical skills and the qualities and merits necessary for acting effectively in the office of a judge.

3. During the interview the questions provided for by points 2 and 3 of part 2 of this Article shall be selected by drawing lots, whereafter the contender shall be provided with twenty minutes in order to get prepared for the speech.

4. The oral speech of a contender on each issue shall last 10 minutes maximum. The speech of the contender shall be followed by a discussion with the members of the Supreme Judicial Council, with a duration of not more than twenty minutes on each question.

5. The maximum duration of the interview with each contender shall be one hour and a half.

6. During the interview the members of the Supreme Judicial Council shall be provided with a questionnaire wherein the features necessary and important for becoming a judge as well as subject to evaluation prescribed by the decision of the Supreme Judicial Council, shall be indicated. Each member of the Council shall, based on his or her inner conviction, evaluate each contender by indicating his or her considerations on the features being evaluated.

7. After completion of interviews with all contenders a final discussion on the results of the interview shall be held between the members of the Supreme Judicial Council.

#### **Article 107. Compiling the list of judge candidates**

1. After completion of the final discussion on the interview and the results at the Supreme Judicial Council, a voting by secret ballot shall be held in respect of each contender, during which each member of the Council shall, based on his or her inner conviction, vote "for" or "against" each contender.

2. Based on the results of voting at the Supreme Judicial Council a list of candidates, having received the maximum number of votes equal to the number of vacant positions in the division of relevant specialisation of the list of candidates, shall be compiled. In case of a tie vote, preference shall be given to the contender having obtained higher total scores, based on the results of the written examination for qualification. In case of availability, as a result, of persons having gained equal scores, all the mentioned persons shall be included in the list.

3. The sex-based (gender-based) balance shall be taken into consideration while compiling the list. Where the number of judges of either sex is less than twenty-five per cent of the total number of judges, at least five seats shall be guaranteed in the list for the candidates of the sex concerned.

4. The Council shall, after summarising the results of voting held at Supreme Judicial Council, draw up a report on each contender having participated in the interview, wherein the circumstances due to which the contender was selected, shall, based on the questionnaires filled in by the members of the Council, the opinions expressed during the final discussion and the special opinions delivered by the members of the Supreme Judicial Council, be indicated in details in case of selected contenders, whereas in case of the contenders having not been selected as a result of the interview, the reasons for rejecting their selection shall be indicated therein.

5. Persons having participated in the interview at the Supreme Judicial Council shall have the right to apply and receive, within a period of one week following the summarisation of the results of voting at the Supreme Judicial Council, the report relating thereto drawn up in accordance with part 4 of this Article.

**Article 108. Approval of the list of judge candidates**

1. The Supreme Judicial Council shall, based on the results of qualification check, compile and approve, as well as refill and change the list of judge candidates.

**Article 109. Procedure for including the former judges in the lists of judge candidates**

1. Persons having practised as judges, the powers whereof have early terminated or discontinued on the grounds defined by this Code (hereinafter referred to as "former judges"), and who have practised as judges for at least 2 years during the last 10 years, may be included in the list of judge candidates and list of promotion of judges as prescribed by this Article where there are no restrictions provided for by Article 111 of this Code. Judges the powers whereof have early terminated may apply for being included in the list of judge candidates and list of promotion of judges only in case the circumstances having served as a ground for early termination of the powers have been eliminated.

2. The persons referred to in part 1 of this Article may, once a year but not later than before 1 October, file an application to the Supreme Judicial Council, by attaching thereto the documents provided for by part 3 of Article 97 of this Code.

3. The Supreme Judicial Council shall consider the candidacy at its session and, if necessary, invite the candidate to an interview.

4. For the purpose of refilling the corresponding section of the list of judge candidates the Supreme Judicial Council shall hold a secret voting by ballot papers. The name and surname of the candidate on the ballot paper shall be followed by words "for" and "against", with empty checkboxes designed for ticking. When voting in favour of the candidate the participant of voting shall tick the checkbox corresponding to the word "for", whereas when voting against the candidate the participant shall tick the checkbox corresponding to the word "against". Where the candidate receives more than half of the votes of the participants of voting, the Supreme Judicial Council shall refill in the list of judge candidates. The President of the Republic shall, within two weeks following the receipt of the proposal, sign the refilled list of judge candidates.

5. Where a person has previously practised as a judge in the Court of Appeal or the Court of Cassation, or has been included in the list of promotion of judges, or has practised as a judge and meets the requirements provided for by Article 122 of this Code, alongside with including him or her in the list of judge candidates, if he or she so wishes, the issue of including him or her in relevant list of promotion shall be also put to a vote, under the same procedure, by a separate ballot paper.

6. The person indicated in part 1 of this Article may be appointed to the position of a judge of the Court of Cassation under the common procedure prescribed by the Constitution of the Republic of Armenia and this Code.

**Article 110. Procedure for including the persons holding academic degrees of doctor of philosophy in law or post-doctor of philosophy in law and engaged in academic activities, in the list of judge candidates**

1. The persons holding academic degrees of doctor of philosophy in law or post-doctor of philosophy in law and engaged in academic activities may be included in the list of judge candidates of relevant specialisation as prescribed by Article 107 of this Code.

2. The persons referred to in part 1 of this Article may, once a year but not later than before 1 October, file an application to the Supreme Judicial Council, by attaching to the application the following documents:

- (1) a personal identification document;
  - (2) a document attesting the availability of the academic degree;
  - (3) a card containing the biographic data of the contender, with the description of professional legal activities thereof, by attaching relevant evidence thereto;
  - (4) a document attesting the completion of compulsory military service or exemption or deferral from the compulsory military service as prescribed by law (in case the contender is male);
  - (5) a document issued under the procedure established by the Government, attesting the absence of physical impairments and diseases hindering the appointment to the position of a judge;
  - (6) a document attesting at least five years of service for the academic activities.
3. The persons indicated in part 1 of this Article shall take a psychological test as prescribed by Article 104 of this Code.
4. The persons indicated in part 1 of this Article shall pass the stage of the interview of the qualification check as prescribed by this Code.
6. Where the person indicated in part 1 of this Article possesses at least eight years of service for the academic activities, alongside with including him or her in the list of judge candidates, if he or she so wishes, the issue of including him or her in the list of judge candidates of the Court of Appeal of relevant specialisation shall be also put to a vote, under the same procedure, by a separate ballot paper.
7. The study at the Academy of Justice for the persons indicated in part 1 of this Code shall be arranged only in respect of development of practical skills.

#### **Article 111. Restrictions on appointment of judges**

1. A person may not be appointed to the position of a judge where:
- (1) he or she has been convicted of a crime regardless of whether or not the conviction has discontinued or cancelled;
  - (2) his or her criminal prosecution has been terminated on non-acquittal grounds;
  - (3) he or she has a physical impairment or disease hindering his or her appointment to the position of a judge;
  - (4) he or she has not undergone the compulsory military service except for the persons having been granted an exemption or deferral from such service, under the procedure and on the ground provided for by law;
  - (5) he or she does not hold the citizenship of the Republic of Armenia;
  - (6) he or she holds the citizenship of another state, in addition to the citizenship of the Republic of Armenia;
  - (7) has been declared as having no active legal capacity, having limited active legal capacity or as missing by a civil judgment of the court having entered into legal force.
2. The list of physical impairments and diseases provided for by point 4 of part 1 of this Article shall be defined by the Government.

**Article 112. Grounds for removal of a candidate from the list of judge candidates**

1. A person included in the list of judge candidates shall be removed from the list where:
  - (1) he or she has been appointed to the position of a judge;
  - (2) he or she has filed an application to that regard;
  - (3) he or she has attained the age of 65;
  - (4) he or she has been included in the list in violation of the requirements of this Code;
  - (5) he or she has failed, without valid reason, to undergo the annual training programme;
  - (6) he or she has not agreed to be appointed to the position of a judge offered thereto in the cases provided for by parts 6 and 7 of Article 115 of this Code;
  - (7) he or she has been declared as having no active legal capacity, having limited active legal capacity, as missing or dead by a civil judgment of the court having entered into legal force;
  - (8) his or her criminal prosecution has been terminated on non-acquittal grounds;
  - (9) a judgment of conviction against him or her has entered into legal force;
  - (10) he or she has lost the citizenship of the Republic of Armenia or has acquired the citizenship of another state, in addition to the citizenship of the Republic of Armenia;
  - (11) a physical impairment or disease hindering his or her appointment to the position of a judge, became known;
  - (12) he or she has not engaged in activities requiring professional qualification of a lawyer for more than 4 consecutive months following the graduation from the Academy of Justice and has not applied to be employed in the staff of courts;
  - (13) he or she has, without valid reason, missed at least 20% of the provided educational courses during the study at the Academy of Justice;
  - (14) he or she has, as a result of temporary incapacity for work, missed at least 50% of the provided educational courses during the study at the Academy of Justice, except for the cases of granting a deferral;
  - (15) the examination score obtained thereby for a course taught during the study at the Academy of Justice is lower than the score set by the Management Board of the Academy of Justice for considering the course as completed, or he or she has failed to pass the probation period provided for by law.
2. The Head of Staff of the Supreme Judicial Council shall, within a period of three days after the grounds established by points 1-10 and 12 of part 1 of this Article arise, inform the Chairperson of the Supreme Judicial Council thereon, who shall be obliged to convene a session of the Supreme Judicial Council, whereas in the cases provided for by points 13-15 of part 1 of this Article the Management Board of the Academy of Justice shall file a motion to the Supreme Judicial Council requesting to remove the person from the list of judge candidates as prescribed by the Law of the Republic of Armenia "On the Academy of Justice".

3. In case of prima facie existence of the ground provided for by point 11 of part 1 of this Article, the Head of Staff of the Supreme Judicial Council shall apply to the competent authority for organising the medical examination of judge candidates.

The judge candidates shall be obliged to undergo the medical examination.

If the medical examination establishes the existence of the ground provided for by point 11 of part 1 of this Article, the Head of Staff of the Supreme Judicial Council shall inform the Chairperson of the Supreme Judicial Council thereon.

4. The Supreme Judicial Council shall examine, at its session, the motion of the Head of Staff of the Supreme Judicial Council or the Management Board of the Academy of Justice. Where based on the results of voting by secret ballot the Supreme Judicial Council considers that the motion meets the requirements of this Article, the person concerned shall be removed from the list of judge candidates.

### **Article 113. Grounds for arising of a vacant position of a judge at a Court of First Instance**

1. A vacant position of a judge at a Court of First Instance may arise in the cases where:

- (1) a new Court of First Instance is established;
- (2) the powers of a judge in office are terminated or discontinued;
- (3) the number of judges at the court concerned is increased.

2. In the cases provided for by points 2 and 3 of part 1 of this Article a vacant position shall not arise where there is a redundant judge in the relevant court, who has not been appointed to the position of a judge at another court. In such case, the judge shall not be considered as redundant any longer. Where there are several redundant judges, priority shall be given to the eldest person.

### **Article 114. Procedure for recommending a judge candidates subject to appointment to the vacant position of a judge at a Court of First Instance**

1. When a vacant position of a judge arises at the Court of First Instance, the Supreme Judicial Council shall recommend, in writing, the judge candidates subject to appointment, to the President of the Republic (moreover, the candidates whereagainst criminal prosecution has been instigated, shall not be considered), by the following sequence:

- (1) firstly, the judge of the Court of Appeal or the Court of Cassation of relevant specialisation shall be recommended, who prior to that applied, in writing, to the Supreme Judicial Council with a request of transferring him or her to the position of a judge of the Court of First Instance. In case of several applicants, the priority shall be given to the eldest person;
- (2) secondly, the eldest judge on reserve, referred to in part 5 of Article 47 of this Code, shall be recommended, who has not been appointed to a position of a judge in another court and possesses specialisation corresponding to the vacant position;
- (3) thirdly, the redundant judge referred to in this Code shall be recommended, who has not been appointed to a position of a judge in another court and possesses specialisation corresponding to the vacant position. In case of several persons, priority shall be given first to the eldest judge at another Court of First Instance, then — to the eldest judge at the Court of Appeal, then — to the eldest judge at the Court of Cassation;
- (4) fourthly, former judges included in the list of judge candidates shall be recommended, as prescribed by Article 109 of this Code. The mentioned persons shall be recommended even where they are included in the list of judges subject to promotion. In case of several persons, priority shall be given to the former eldest judge and then — to the eldest person;



(5) fifthly, the candidates of corresponding specialisation in the list of candidates having graduated from the Academy of Justice shall be recommended, except for persons responsible for compulsory military service, by decreasing order of total scores of graduation from the Academy of Justice. In case of equal total scores, preference shall be given to the eldest candidate. A proposal may be made to the graduates of the current year where the list of judge candidates does not include candidates having graduated from the Academy of Justice in previous years and those possessing specialisation corresponding to the vacant position, or where all candidates, included in the list of judge candidates, having graduated in previous years and possessing specialisation corresponding to the vacant position, are responsible, at the moment concerned, for compulsory military service.

2. The Supreme Judicial Council shall deliver the written proposal to the judges on reserve, former judges and the persons provided for by point 5 of part 1 of this Article, forwarded to the address of the place of residence of the relevant candidate. In other cases, the Supreme Judicial Council shall deliver the written proposal to the workplace of the relevant candidate.

**Article 115. Procedure for accepting the proposal by the candidates recommended for a vacant position of judges at a Court of First Instance and consequences of failure to accept it**

1. The candidate shall, within one week upon receipt of the notification, be obliged to introduce to the Supreme Judicial Council his or her written consent for the appointment or express his or her disagreement therewith. Failure to give consent within the specified time limit shall be considered as disagreement.

2. The disagreement of a person shall not cause any negative consequences for him or her in the case prescribed by point 1 of part 1 of Article 114 of this Code.

3. In the cases provided for by points 2 and 3 of part 1 of Article 114 of this Code the consent of the judge of the specialised Court of First Instance or the Court of Appeal or the Court of Cassation shall not lift his or her status as a judge on reserve or redundant judge, respectively, while it shall lift the status for judges of the Court of First Instance.

4. In the case prescribed by point 4 of part 1 of Article 114 of this Code the disagreement of a candidate, except where he or she is included in the list of promotion of judges shall also lead to his or her removal from the list of judge candidates. In case the candidate is removed from the list of judge candidates on this ground he or she may no longer apply with a request of being included in the list as prescribed by Article 109 of this Code.

5. In the case prescribed by point 5 of part 1 of Article 114 of this Code the disagreement of the candidate shall lead to his or her removal from the list of judge candidates, except for the refusal by reason of pregnancy and where the list includes graduates possessing specialisation corresponding to the vacant position in the Academy of Justice, who are not responsible, at the moment concerned, for compulsory military service and have gained total scores less than those of the given candidate.

6. Where in the case prescribed by point 5 of part 1 of Article 114 of this Code, the candidate on the list with the minimum total scores of the current year must be removed from the list due to disagreement in accordance with part 7 of this Article, the Supreme Judicial Council shall repeat its proposal to the candidate who possesses the preceding minimum total scores. Where the candidate concerned must be also removed from the list due to disagreement, the proposals provided for by this part shall be repeated as long as nobody has accepted the proposal, or the list of specialisation corresponding to the vacant position of the graduates of the [Judicial] school of the current year has not exhausted, except for the graduates who are responsible, at the moment concerned, for compulsory military service.

7. In case of disagreement of the candidate referred to in point 6 of part 1 of Article 114 of this Code the Supreme Judicial Council shall repeat its proposal to the next person included in the list of the judge candidates in chronological order as long as nobody has accepted the proposal, or the list of specialisation corresponding to the vacant position has not exhausted.

8. In case of the consent given by the candidate the candidacy shall be recommended to the President of the Republic. The President of the Republic shall, within a period of three days, appoint the relevant person to the position of a judge, based on the recommendation of the Supreme Judicial Council.

9. In the cases provided for by points 4, 5 and 6 of part 1 of Article 114 of this Code the President of the Republic shall adopt, within a period of three days, a decree on returning to the Supreme Judicial Council the proposal with his or her objections therein.

10. In case the Supreme Judicial Council fails to accept the objection of the President of the Republic upon voting by secret ballot, by majority of votes of the members attending the session of the Council, the President of the Republic shall, within a period of three days, appoint the relevant person to the position of a judge or apply to the Constitutional Court on the ground provided for by point 4 of part 1 of Article 168 of the Constitution of the Republic of Armenia.

11. The Supreme Judicial Council shall discuss, based on the decision of the Constitutional Court, the issue on removing the person from the list of judge candidates in case he or she is on the list of candidates.

12. In case the President of the Republic fails to return, within a period of three days, the proposal of the Supreme Judicial Council with his or her objections therein, to the Supreme Judicial Council, or fails to apply to the Constitutional Court in case of not accepting by the Supreme Judicial Council the objections of the President of the Republic, the relevant person shall be deemed, by virtue of law, as appointed to the position of a judge whereon a notification shall be published by the Supreme Judicial Council on the official website of the judiciary.

13. In the cases provided for by points 2 and 3 of part 1 of Article 114 of this Code where the procedures established by this Code have not been violated, the President of the Republic shall appoint the proposed candidate to the position of a judge within a period of ten days.

#### **Article 116. Oath of the judge**

1. When assuming the office of a judge for the first time, the person appointed to the position of a judge shall, not later than within a period of one month from the date of appointment, assume his or her position with the following oath given in the presence of the President of the Republic at the session of the Supreme Judicial Council:

"Assuming the high position of a judge, I hereby swear in front of the people of the Republic of Armenia to perform my duties of a judge in compliance with the Constitution and laws of the Republic of Armenia, to be independent, impartial and adhering to principles, just and humanitarian, to observe sacredly all the requirements to the status of a judge by ensuring the rule of law and keeping the reputation of the judiciary high."

2. The oath shall be taken in a solemn atmosphere where each judge shall, in an individual manner, read out the text of the oath; whereafter the judge shall sign under the text read out thereby.

#### **Article 117. Procedure for appointing a judge of another Court of First Instance to the vacant position of a judge of the Court of First Instance**

1. In exceptional cases the judge of the Court of First Instance shall have the right to apply to the Supreme Judicial Council out of the turn specified by Article 114 of this Code, with a

request of appointing him or her to the position of a judge of another Court of First Instance, in case of arising a vacant position of a judge of the Court of First Instance concerned. The judge submitting an application must give reasoning to his or her application. The justified reasons for the transfer must be indicated in the application. The Supreme Judicial Council shall consider the application of the judge at its session and, if necessary, invite the judge candidate to an interview. The Supreme Judicial Council shall hold a secret voting by ballot papers. If more than half of the participants of voting have voted for the transfer, the relevant proposal shall be submitted to the President of the Republic. The reasoned application of relevant judge shall be also submitted to the President of the Republic. The President of the Republic shall make the respective appointment based on the recommendation of the Supreme Judicial Council.

2. The provisions prescribed by Article 115 of the Code shall apply to the appointment, by the President of the Republic, of persons referred to in part 1 of this Article.

**Article 118. Procedure for exchanging the positions of judges of different Courts of First Instance**

1. Judges of two different Courts of First Instance shall have the right to apply to the Supreme Judicial Council with a request of making an exchange of their positions. The judges submitting applications must give reasoning to their applications. The justified reasons for exchanging relevant positions of judges must be indicated in the application. Such application may not serve as a matter of discussion in case there are redundant judges in the courts concerned.

2. The Supreme Judicial Council shall consider the submitted application at its session and, if necessary, invite judges to an interview.

3. The Supreme Judicial Council shall hold a secret voting by ballot papers. If more than half of the participants of voting have voted for the transfer, the relevant proposal shall be submitted to the President of the Republic. The justified applications of relevant judges shall be also submitted to the President of the Republic. The President of the Republic shall make relevant appointments based on

4. The provisions prescribed by Article 115 of the Code shall apply to the appointment, by the President of the Republic, of persons referred to in part 1 of this Article.

**Article 119. Procedure for appointing the Chairperson of a Court of First Instance**

1. In case a vacant position for the Chairperson of a Court of First Instance arises, the Staff of the Supreme Judicial Council shall draw up and submit, within a period of two weeks, to the Supreme Judicial Council the list of all judges of the Court of First Instance concerned who possess at least 3 years of service in the office of a judge at the Court of First Instance concerned and have not been imposed disciplinary penalties.

2. The Supreme Judicial Council shall examine, at its session, the personal files of contenders and, if necessary, invite them to an interview.

3. The Supreme Judicial Council taking into consideration the features prescribed by Article 120 of this Code, shall hold a secret voting by ballot papers. All persons included in the list prescribed by part 1 of this Article shall be included in the ballot paper. Voting shall be held under the procedure established by the Supreme Judicial Council.

4. Each member of the Supreme Judicial Council shall have one vote. Firstly, the candidacies of judges wishing to be included in the list prescribed by part 1 of this Article, shall be put to a vote, except where only one candidate is included in this list. Based on the voting results, the person having received greater number of "for" votes shall be proposed to the President of the Republic. In case of a tie vote additional voting shall be held by including in the ballot paper only the persons having received equal number of votes. In case of a tie vote as a result of additional voting, preference shall be given to the eldest person.

5. The provisions prescribed by Article 115 of this Code shall apply to the appointment, by the President of the Republic, of persons referred to in part 1 of this Article.

6. The term of office of the Chairperson of a Court of First Instance shall be three years. Following the expiry of the term of office the Chairperson of a Court of First Instance shall continue to hold the office of a judge of the Court of First Instance concerned. Within three years following the expiry of his or her term of office the Chairperson of a Court of First Instance may not be re-appointed to the position of a chairperson of the court or be included in the list provided for by part 1 of this Article.

**Article 120. Features taken into consideration during the voting by ballot papers while making proposals related to appointment of chairpersons of courts**

1. The member of the Supreme Judicial Council shall, in the course of discussing the issue of making a proposal related to the appointment of chairpersons of courts, take into consideration the following features:

- (1) professional reputation of a judge;
- (2) work skills;
- (3) observance of the rules of conduct of a judge;
- (4) written and oral communication skills;
- (5) participation of a judge in self-governance of the judiciary;
- (6) participation of a judge in development projects on law and legislation;
- (7) attitude towards colleagues during performance of his or her duties of a judge;
- (8) organisational skills of a judge and qualities displayed by the judge in the performance of managerial activities.

**CHAPTER 17  
DRAWING UP AND APPROVAL OF THE LISTS OF JUDGE CANDIDATES FOR  
PROMOTION. PROCEDURE FOR THE APPOINTMENT OF JUDGES IN  
COURTS OF APPEAL AND THE COURT OF CASSATION, CHAIRPERSONS  
OF COURTS OF APPEAL, CHAIRPERSONS OF CHAMBERS OF THE COURT  
OF CASSATION AND THE ELECTION OF THE CHAIRPERSON OF THE  
COURT OF CASSATION**

**Article 121. Lists of judge candidates for promotion**

1. The Supreme Judicial Council shall draw up and approve, as well as supplement and modify the lists of judge candidates for promotion.

2. Lists of judge candidates for promotion shall be:

- (1) list of judge candidates for promotion to be appointed to the judicial position in courts of appeal with sections of criminal, civil, administrative specialisation;

(2) list of judge candidates for promotion to be appointed to the judicial position in the Court of Cassation with sections of criminal, civil, administrative specialisation.

**Article 122. Features taken into account while drawing up the list of judge candidates for promotion**

1. The member of the Supreme Judicial Council when considering the issue of drawing up a list of judge candidates for promotion, and voting by ballot papers shall take into account the following features:

- (1) professional knowledge of a judge, taking into account the professional activities, professional and post-graduate education of a judge;
- (2) working skills;
- (3) upholding by the judge of the reputation of the court and of a judge and observation of the rules of judicial conduct;
- (4) oral and written communication skills, based on the minutes of court sessions and the judicial acts issued by the judge;
- (5) participation of the judge in educational and professional training programs as provided for by this Code;
- (6) participation of the judge in the self-governance of the judiciary;
- (7) participation of the judge in law and legislation development programs;
- (8) attitude displayed towards colleagues while performing the duties of a judge;
- (9) results of performance evaluation of a judge.

**Article 123. Drawing up and approval of the list of judge candidates for promotion to be appointed to the judicial position in courts of appeal**

1. The following persons may be included in the list of judge candidates for promotion to be appointed to the judicial position in courts of appeal:

- (1) a judge with professional experience of at least 3 years in a judicial position of relevant specialisation in a court of first instance, having received at least good rating as a result of evaluation, and against whom no disciplinary penalty in the form of reprimand or severe reprimand has been imposed;
- (2) a former judge having worked as a judge with relevant specialisation for at least 5 years within the last 8 years, against whom no disciplinary penalty in the form of reprimand or severe reprimand has been imposed, and whose performance has been evaluated as good;
- (3) a former judge having worked as a judge in a court of appeal, a judge in the Court of Cassation for at least 3 years within the last 8 years, against whom no disciplinary penalty in the form of reprimand or severe reprimand has been imposed, and whose performance has been evaluated as good;
- (4) persons holding academic degree of Candidate or Doctor of Juridical Sciences and engaged in academic activities.

2. The list of judge candidates for promotion to be appointed to the judicial position in courts of appeal shall consist of three sections:

- 1) criminal specialisation;
- 2) civil specialisation;
- 3) administrative specialisation.

3. Where the section list of either specialisation of the list of judge candidates for promotion has expired, or where by 1 November of the current year there are no more than four judges in the section of either specialisation of the list of judge candidates for promotion, the Supreme Judicial Council shall, through the official website of the judiciary of the Republic of Armenia, make a statement on drawing up the list of the relevant specialisation of the list of judge candidates for promotion. The statement shall specify time limits and place of the submission of applications and documents by candidates.

4. Within a time limit of two weeks after making the statement, persons referred to in part 1 of this Article for being included in the list of judge candidates for promotion may file an application to the Supreme Judicial Council expressing a wish to be included in the relevant section of the list of judge candidates for promotion. Application on being included in the list of judge candidates for promotion shall also contain requirement of performance evaluation of the applicant. A person may apply for being included in the section of only one specialisation.

5. Within a time limit of ten days after expiry of the time limit for receiving applications, the Supreme Judicial Council shall study the personal files of the contenders in its session, and, if necessary, invite them to an interview.

6. The persons referred to in point 3 of part 1 of this Article may once a year, but no later than before 1 October, file an application to the Supreme Judicial Council, by attaching the following documents:

- 1) an identification document;
- 2) a document certifying the holding of an academic degree;
- (3) a card containing the biographic data of the contender, with the description of professional legal activities, by attaching thereto the relevant evidences;
- (4) a document certifying completion of the compulsory military service or release or deferment from the compulsory military service as provided for by law (in case the contender is of male sex);
- (5) a document issued as prescribed by the Government, certifying the absence of physical impairments and diseases hindering the appointment to the judicial position;
- (6) a document certifying at least eight years of service record for the academic activities.

7. For the purpose of drawing up the list of judge candidates for promotion, the Supreme Judicial Council shall, taking into account the features prescribed by Article 122 of this Code, hold voting by secret ballot. For each section separate ballot papers shall be drawn up including all candidates having submitted applications for being included in that section. The word "for" shall be written after the name and surname of each candidate with an empty checkbox for ticking.

8. Where the number of candidates having applied for being included in the relevant section of the list of judge candidates for promotion exceeds the number necessary to complete the list, when voting for that section the number of votes to which each member of the Supreme Judicial Council is entitled shall be equal to the difference between the number 5 and the

number of persons in the relevant section of the promotion list as of the voting day. When voting for each candidate the voter shall tick the checkbox corresponding to the word "for". Where a voter has given more votes than prescribed by this part, the ballot paper shall be deemed invalid. Based on the voting results, the number of judges having received the greatest number of affirmative votes to be included in the relevant section of the promotion list shall be equal to the number of votes to which each voter is entitled. In case of equality of votes an additional voting shall be held by including in the ballot paper only the judges having received equal votes. During the additional voting each member of the Supreme Judicial Council shall have the right to one vote. In case of equality of votes as a result of additional voting, preference shall be given to the eldest person.

9. Where the number of candidates having applied for being included in the relevant section of the list of judge candidates for promotion is less than or equal to the number necessary to complete the list, when voting for that section the number of votes to which each member of the Supreme Judicial Council is entitled shall be equal to the number of candidates. Based on the voting results, candidates having received votes of more than half of the members of the Supreme Judicial Council having participated in the voting shall be considered having carried an election.

10. The Supreme Judicial Council shall approve the list of judge candidates for promotion drawn up as a result of voting.

11. The Academy of Justice shall arrange training on development of practical skills for persons specified in point 4 of part 1 of this Article.

#### **Article 124. Drawing up and approval of the list of judge candidates for promotion to be appointed to the judicial position in the Court of Cassation**

1. The following persons having attained the age of forty, holding the citizenship of only the Republic of Armenia, having the right of suffrage, possessing high professional qualities and with at least ten years of professional work experience may be included in the relevant section of the list of judge candidates for promotion to be appointed to the judicial position in the Court of Cassation:

- (1) judges or
- (2) persons holding academic degree of Doctor of Juridical Sciences and engaged in academic activities.

2. Where the section of relevant specialisation of the list of judge candidates for promotion has expired, or where by 1 November of the current year there are no more than four judges in the section of relevant specialisation of the list, the Supreme Judicial Council shall, through the official website of the judiciary of the Republic of Armenia, make a statement on drawing up the list of judge candidates for promotion. The statement shall specify time limits and place of the submission of applications and documents by candidates.

3. Within a time limit of two weeks after making the statement, persons referred to in part 1 of this Article for being included in the list of judge candidates for promotion may file an application to the Supreme Judicial Council expressing a wish to be included in the list of judge candidates for promotion. Application on being included in the list of judge candidates for promotion shall also contain requirement of performance evaluation of the applicant.

4. Within a time limit of ten days after expiry of the time limit for receiving applications, the Supreme Judicial Council shall study the personal files of the contenders in its session, and, if necessary, invite them to an interview.

5. The persons referred to in point 3 of part 1 of this Article may once a year, but no later than before 1 October, file an application to the Supreme Judicial Council, by attaching the following documents:

- 1) an identification document;
- 2) a document certifying the holding of an academic degree of Doctor of Juridical Sciences;
- (3) a card containing the biographic data of the contender, with the description of professional legal activities, by attaching thereto the relevant evidences;
- (4) a document certifying completion of the compulsory military service or release or deferment from the compulsory military service as provided for by law (in case the contender is of male sex);
- (5) a document issued as prescribed by the Government, certifying the absence of physical impairments and diseases hindering the appointment to the judicial position;
- (6) a document certifying at least ten years of service record for the academic activities.

6. For the purpose of drawing up the list of judge candidates for promotion, the Supreme Judicial Council shall, taking into account the features prescribed by Article 122 of this Code, hold voting by secret ballot. All candidates having submitted applications for being included in that section shall be included in the ballot papers. The word "for" shall be written after the name and surname of each candidate with an empty checkbox for ticking.

7. Where the number of candidates having applied for being included in the list of judge candidates for promotion exceeds the number necessary to complete the list, when voting the number of votes to which each member of the Supreme Judicial Council is entitled shall be equal to the difference between the number 5 and the number of persons in the list of judge candidates for promotion as of the voting day. When voting for each candidate the voter shall tick the checkbox corresponding to the word "for". Where a voter has given more votes than prescribed by this part, the ballot paper shall be deemed invalid. Based on the voting results, the number of judges having received the greatest number of affirmative votes to be proposed to the President of the Republic for being included in the promotion list shall be equal to the number of votes to which each voter is entitled. In case of equality of votes an additional voting shall be held by including in the ballot paper only the judges having received equal votes. During the additional voting each member of the Council of Justice shall have the right to one vote. In case of equality of votes as a result of additional voting, preference shall be given to the eldest person.

8. Where the number of candidates having applied for being included in the list of judge candidates for promotion is less than or equal to the number necessary to complete the list, when voting the number of votes to which each member of the Supreme Judicial Council is entitled shall be equal to the number of candidates. Based on the voting results, candidates having received votes of more than half of the members of the Supreme Judicial Council having participated in the voting shall be considered having carried an election.

9. The Supreme Judicial Council shall approve the list of judge candidates for promotion drawn up as a result of voting.

#### **Article 125. Grounds for exclusion from the annual lists of judge candidates for promotion**

1. A person included in the lists of judge candidates for promotion shall be excluded from the list where:

- (1) he or she has been appointed to the judicial position, respectively, through promotion;



- (2) he or she files a request thereon;
  - (3) powers thereof as a judge have been imposingly or automatically terminated;
  - (4) he or she has been included in the list of judge candidates for promotion in violation of requirements of this Code;
  - (5) he or she has been included in the relevant section of the list of judge candidates for promotion within the last five years;
  - (6) the Supreme Judicial Council has imposed a disciplinary sanction against him or her in the form of reprimand or severe reprimand;
  - 7) he or she has been removed from the list of judge candidates.
2. A person shall be excluded from the list of judge candidates for promotion where the grounds prescribed by this Article emerge.
  3. Excluding a person from the list shall not hinder him or her from re-applying for inclusion in the list.

**Article 126. Grounds for occurring of a vacant judicial position in a court of appeal**

1. A vacant judicial position in a court of appeal may occur where:
  - (1) a new court of appeal is established;
  - (2) powers of an acting judge are imposingly or automatically terminated;
  - (3) the number of judges in the given court is increased.
2. In cases provided for by points 2 and 3 of part 1 of this Article a vacant judicial position shall not occur where there is a redundant judge in the relevant court, who has not been appointed to a judicial position in another court. In that case the judge ceases to be considered redundant. Where there are several judges priority shall be given to the eldest one.

**Article 127. Procedure for proposing a judge candidate to be appointed to the vacant judicial position in a court of appeal**

1. When a vacant judicial position in a court of appeal occurs, the Supreme Judicial Council shall, for the purpose of proposing a candidacy to the President of the Republic, make an offer in writing to the judges in the following sequence:
  - (1) firstly, to a judge in a court of appeal or Court of Cassation having relevant specialisation, who, prior to that, had filed a written request to the Supreme Judicial Council asking for a transfer to the judicial position in a court of appeal. In case of several applicants the priority shall be given to the eldest one;
  - (2) secondly, to the eldest reserve judge in a court of appeal or Court of Cassation, who has not been appointed to the judicial position in another court (except for academic lawyers);
  - (3) thirdly, to a redundant judge in a court of appeal or Court of Cassation defined by part 6 of Article 14 of this Code, who has not been appointed to a judicial position in another court. Where there are several such persons, the priority shall be given first to the eldest judge in a court of appeal, and then to the eldest judge in the Court of Cassation (except for the persons provided for by Article 124 of this Code);

(4) fourthly, to the eldest redundant or reserve judge in a court of appeal or Court of Cassation, who holds the judicial position in a court of first instance.

2. In case of acting judges the Supreme Judicial Council shall send the written offer to the place of employment thereof, and in case of reserve judges — to the address of the place of residence.

3. Where there are no persons defined by part 1 of this Article or these persons reject the offer, the candidacies of all persons included in the relevant section of the list of judge candidates for promotion to be appointed to the judicial position in courts of appeal shall be considered proposed.

4. In the case provided for by part 3 of this Article, former judges included in the list of judge candidates for promotion to be appointed to the judicial position in the Court of Cassation may also apply for the vacant position by means of self-nomination. In case of appointment to the vacant position they shall remain in the promotion list for appointment to the judicial position in the Court of Cassation and if they refuse to occupy a vacant position, they shall be excluded from the promotion list for appointment to the judicial position in the Court of Cassation.

**Article 128. Procedure for acceptance of the offer by the candidates proposed for a vacant judicial position in a court of appeal and consequences of not accepting such offer. Proposal by the Supreme Judicial Council and appointment**

1. The candidate shall be obliged to, within one week following the receipt of notification, submit to the Supreme Judicial Council his or her written consent for the appointment or express his or her disagreement therewith. Failure to give consent within the specified time limit shall be considered as disagreement.

2. The disagreement of a person defined by point 1 of part 1 of Article 127 of this Code shall not cause any negative consequence therefor.

3. In cases provided for by points 2 and 3 of part 1 of Article 127 of this Code, the consent of a judge of the Court of Cassation shall not lift his or her status as a reserve or redundant judge, respectively, while it shall lift the status for judges of a court of appeal.

4. In case of disagreement of a judge defined by point 4 of part 1 of Article 7 of this Code, he or she shall start receiving the salary corresponding to the position held thereby.

5. In case of consent of the candidate, the Supreme Judicial Council shall make a proposal concerning the presented candidacy through a secret ballot, where the procedures prescribed by this Code are not violated. The President of the Republic shall appoint the relevant person to the judicial position based on the proposal by the Supreme Judicial Council.

6. Provisions prescribed by Article 115 of this Code shall apply to the appointment by the President of the Republic of the persons defined by part 1 of this Article.

**Article 129. Procedure for submitting a proposal concerning persons included in the list of judge candidates for promotion for the vacant judicial position in a court of appeal and appointment thereof**

1. The Supreme Judicial Council shall, in its session, study the personal files of the persons included in the relevant section of the list of judge candidates for promotion to be appointed to the judicial position in courts of appeal and of the persons self-nominated under part 4 of Article 127 of this Code and, if necessary, invite them to an interview.

2. The Supreme Judicial Council, taking into account the features prescribed by Article 122 of this Code, shall hold a voting by secret ballot. All persons included in the relevant section of

the list of judge candidates for promotion to be appointed to the judicial position in courts of appeal and all persons self-nominated under part 4 of Article 7 of this Code shall be included in the ballot paper. The word "for" shall be written after the name and surname of each candidate with an empty checkbox for ticking.

3. Each member of the Supreme Judicial Council shall have the right to one vote. When voting for the preferred candidate the checkbox corresponding to the word "for" shall be ticked. Ballot papers containing more than one vote shall be deemed invalid. Based on the voting results, the person having received the greatest number of affirmative votes shall receive a positive opinion. In case of equality of votes an additional voting shall be held by including in the ballot paper only the persons having received equal votes. In case of equality of votes as a result of additional voting, preference shall be given to the eldest person.

4. Where there is only one candidate in the ballot, he or she shall be considered elected where he or she has received more than half of the votes of the members of the Supreme Judicial Council having participated in the voting. Where the person does not receive the prescribed number of votes, the Supreme Judicial Council shall exclude that person from the list of judge candidates for promotion to be appointed to the judicial position in courts of appeal and make a statement on new nominations for inclusion in the list of judge candidates for promotion to be appointed to the judicial position in courts of appeal.

5. Based on the voting results the Supreme Judicial Council shall submit a proposal to the President of the Republic as prescribed by Article 128 of this Code.

#### **Article 130. Procedure for the appointment of the chairperson of a court of appeal**

1. In case of occurring of a vacant position of the chairperson of a court of appeal occurs, the staff of the Supreme Judicial Council shall draw up and, within a time limit of three weeks, submit to the Supreme Judicial Council the list of all judges of the given court who meet the requirements provided for by this Article and can qualify for the position of the chairperson of a court.

2. All judges of the Court of Cassation with at least 3 years of service record as a judge in the given Court shall be included in the list prescribed by part 1 of this Article.

3. The Supreme Judicial Council shall study the personal files of the contenders in its session and, if necessary, invite them to an interview.

4. The Supreme Judicial Council, taking into account the features prescribed by Article 120 of this Code, shall hold voting by secret ballot. All the persons included in the list prescribed by part 1 of this Article shall be included in the ballot paper. The word "for" shall be written after the name and surname of each contender with an empty checkbox for ticking.

5. Each member of the Supreme Judicial Council shall have the right to one vote. Firstly, the candidacies of judges having expressed a wish to be included in the list prescribed by part 1 of this Article, shall be put to a vote except where only one candidate is included in the list concerned. Based on the voting results, the person having received the greatest number of affirmative votes shall be proposed to the President of the Republic. In case of equality of votes an additional voting shall be held by including in the ballot paper only the persons having received equal votes. In case of equality of votes as a result of additional voting, preference shall be given to the eldest person.

6. Where only one candidate is included in the list prescribed by part 1 of this Article, he or she shall be deemed elected, where he or she has received more than half of the votes of the members of the Supreme Judicial Council having participated in the voting.

7. Provisions prescribed by Article 115 of this Code shall apply to the appointment by the President of the Republic of the persons defined by part 1 of this Article.

8. The term of office for the chairperson of a court of appeal shall be three years. After the expiry of the term of office the chairperson of a court of appeal shall continue holding the office as a judge in the given court.

9. The chairperson of a court of appeal may not be re-appointed to the position of the chairperson of the court or be included in the list provided for by part 1 of this Article within three years following the expiry of the term of office thereof.

#### **Article 131. Grounds for occurring of a vacant judicial position in the Court of Cassation**

1. A vacant judicial position in the Court of Cassation may occur where:

- (1) a new chamber of the Court of Cassation is established;
- (2) powers of an acting judge are imposingly or automatically terminated;
- (3) the number of judges in the given court is increased.

2. In cases provided for by points 2 and 3 of part 1 of this Article a vacant position shall not occur where there is a redundant judge in the relevant court, who has not been appointed to a judicial position in another court. In that case the judge ceases to be considered redundant. Where there are several judges priority shall be given to the eldest one.

#### **Article 132. Procedure for proposing a candidate for a vacant judicial position in the Court of Cassation**

1. When a vacant judicial position in the Court of Cassation occurs, the Supreme Judicial Council shall, for the purpose of proposing a candidacy to the National Assembly, make an offer in writing to the judges in the following sequence:

- (1) firstly, to the eldest reserve judge or the chairperson of a chamber of the Court of Cassation, who has not been appointed to the judicial position in another court;
- (2) secondly, to the eldest redundant or reserve judge or the chairperson of a chamber of the Court of Cassation, who holds the judicial position in another court.

2. Where there are no persons defined by part 1 of this Article or these persons reject the offer, the Supreme Judicial Council shall undertake the election of a candidate from the list of judge candidates for promotion as prescribed by Article 134 of this Code.

#### **Article 133. Procedure for acceptance of the offer by the candidates proposed for a vacant judicial position in the Court of Cassation and consequences of not accepting such offer. Proposal by the Supreme Judicial Council and appointment**

1. The candidate shall be obliged to, within one week following the receipt of notification, submit to the Supreme Judicial Council his or her written consent for the appointment or express his or her disagreement therewith. Failure to give consent within the specified time limit shall be considered as disagreement.

2. The disagreement of a person defined by point 1 of part 1 of Article 132 of this Code shall not cause any negative consequence therefor.

3. In case of disagreement of the person defined by point 2 of part 1 of Article 132 of this Code, reserve status thereof shall be terminated.

**Article 134. Procedure for submitting a proposal concerning persons included in the list of judge candidates for promotion for the vacant judicial position in the Court of Cassation and appointment thereof**

1. The Supreme Judicial Council shall, in its session, study the personal files of the persons included in the relevant section of the list of judge candidates for promotion to be appointed to the judicial position in the Court of Cassation and of the persons self-nominated under part 4 of Article 127 of this Code and, if necessary, invite them to an interview.
2. The Supreme Judicial Council, taking into account the features prescribed by Article 122 of this Code, shall hold a voting by secret ballot. All persons included in the relevant section of the list of judge candidates for promotion to be appointed to the judicial position in the Court of Cassation and all persons self-nominated under part 4 of Article 7 of this Code shall be included in the ballot paper.
3. In the cases prescribed by this Article, as well as by Article 133, the Supreme Judicial Council shall make a proposal and present three candidates for each judicial position.
4. The Supreme Judicial Council shall submit a proposal to the National Assembly, which shall elect the proposed candidate by at least three-fifths of votes of the total number of Deputies and propose him or her to the President of the Republic.
5. The President of the Republic may, within a time limit of three days, return the proposal to the National Assembly with his or her objections therein.
6. Where the National Assembly does not accept the objections of the President of the Republic, the President of the Republic shall adopt a decree on appointing a relevant person to the judicial position in the Court of Cassation or apply to the Constitutional Court upon the ground provided for by point 4 of part 1 of Article 168 of the Constitution of the Republic of Armenia.
7. Where the President of the Republic, within a time limit of three days, fails to return the proposal to the National Assembly with his or her objections, or does not apply to the Constitutional Court in case the National Assembly does not accept the objections of the President of the Republic, the relevant person shall be deemed appointed to the judicial position by virtue of law.

**Article 135. Procedure for the appointment of the chairperson of a chamber of the Court of Cassation**

1. In case of occurring of a vacant position of the chairperson of a chamber of the Court of Cassation, the staff of the Supreme Judicial Council shall draw up and, within a time limit of three weeks, submit to the Supreme Judicial Council the list of all judges of the given chamber with not less than 3 years of service record as a judge in the given court.
2. The Supreme Judicial Council shall study the personal files of the contenders in its session and, if necessary, invite them to an interview.
3. The Supreme Judicial Council, taking into account the features prescribed by Article 120 of this Code, shall hold voting by secret ballot. All the persons included in the list prescribed by part 1 of this Article shall be included in the ballot paper. The word "for" shall be written after the name and surname of each contender with an empty checkbox for ticking.
4. Each member of the Supreme Judicial Council shall have the right to one vote. Firstly, the candidacies of judges having expressed a wish to be included in the list prescribed by part 1 of this Article, shall be put to a vote except where only one candidate is included in the list concerned. Based on the voting results, the person having received the greatest number of affirmative votes shall be proposed to the President of the Republic. In case of equality of votes

an additional voting shall be held by including in the ballot paper only the persons having received equal votes. In case of equality of votes as a result of additional voting, preference shall be given to the eldest person.

5. Where only one candidate is included in the list prescribed by part 1 of this Article, he or she shall be deemed elected, where he or she has received more than half of the votes of the members of the Supreme Judicial Council having participated in the voting.

6. Provisions prescribed by Article 115 of this Code shall apply to the appointment by the President of the Republic of the persons defined by part 1 of this Article.

7. The term of office for the chairperson of a chamber of the Court of Cassation shall be six years. After the expiry of the term of office the chairperson of a chamber of the Court of Cassation shall continue holding the office as a judge in the given court.

8. The same person may be appointed to the position of the chairperson of a chamber of the Court of Cassation only once.

#### **Article 136. Procedure for the election of the Chairperson of the Court of Cassation**

1. The candidate for the position of the Chairperson of the Court of Cassation shall be elected as prescribed by Article 134 of this Code.

2. The Supreme Judicial Council shall submit a proposal to the National Assembly concerning the elected candidate.

3. Pursuant to part 5 of Article 166 of the Constitution the Chairperson of the Court of Cassation shall be elected by the National Assembly by a majority of votes of the total number of Deputies.

4. The Chairperson of the Court of Cassation shall be elected for a term of six years.

5. The same person may be elected as the Chairperson of the Court of Cassation only once.

#### **Article 137. Automatic termination of powers of the chairperson of a court of first instance, a court of appeal, a chamber of the Court of Cassation and the Chairperson of the Court of Cassation**

1. The powers of the chairperson of a court of first instance, a court of appeal, a chamber of the Court of Cassation and the Chairperson of the Court of Cassation shall be automatically terminated in case of existence of grounds for termination of the term of office prescribed by this Code.

### **CHAPTER 18 DISCIPLINARY ACTION AGAINST JUDGES**

#### **Article 138. Imposing disciplinary action against judges**

1. Disciplinary action against judges may be imposed by the Supreme Judicial Council.

2. Disciplinary proceedings shall be conducted on the basis of the principles of lawfulness, respect for the independence of the judiciary, proportionality of the disciplinary penalty being imposed for the disciplinary violation committed, impermissibility of arbitrariness, and transparency.

**Article 139. Grounds for imposing disciplinary action against judges**

1. Grounds for imposing disciplinary action against judges shall be:
  - (1) violation of the provisions of substantive or procedural law with intent or gross negligence during the administration of justice;
  - (2) violation by the judge of the rules of conduct prescribed by this Code with intent or gross negligence;
  - (3) failure by the judge to fulfil his or her duties to participate in mandatory trainings, as well as the duties imposed on him or her by the probation supervisor, as provided by the Law of the Republic of Armenia "On the Academy of Justice".
2. Within the meaning of this Article, disciplinary violations shall be considered to be committed with intent, where the judge realised the fact that he or she committed a violation of the rules of conduct and wanted to commit it or knowingly committed it.
3. Within the meaning of this Article, disciplinary violations shall be considered to be committed with gross negligence, where the judge did not realise the fact that he or she committed a violation of the rules of conduct, but should and could have realised it in that situation.
4. On the ground defined by point 1 of part 1 of this Article, disciplinary action proceedings may be instituted where the judicial act rendered in violation of provisions of substantive or procedural law has been quashed (revoked) and the quashing (revoking) judicial act has entered into force.
5. Quashing or amending a judicial act shall not serve as a ground for imposing disciplinary action against the judge who has rendered that act.
6. Imposing criminal, administrative, civil, or other liability provided by law, against a judge does not exclude the possibility of imposing disciplinary action against the judge and terminating his or her powers, and vice versa.
7. Except for cases when it is done with intent or gross negligence, wrong interpretation of the law or wrong assessment of facts and proofs during the administration of justice may not result in disciplinary action.

**Article 140. Time limits for instituting proceedings with a view to imposing disciplinary action**

1. Proceedings with a view to imposing disciplinary action against a judge may be instituted within one year following the commission of the disciplinary violation, except for the case prescribed by part 6 of Article 142 of this Code.
2. In case of presence of a ground prescribed by point 1 of part 1 of Article 139 of this Code, proceedings may be instituted within one year following the entry into force of the judicial act quashing (revoking) the judicial act rendered in violation of a provision of substantive or procedural law.

**Article 141. Bodies entitled to institute disciplinary proceedings against a judge**

1. The following shall be entitled to institute disciplinary proceedings against a judge:
  - (1) Ethics and Disciplinary Commission of the General Assembly of Judges;

(2) Minister of Justice.

2. In case of instituting disciplinary proceedings, the bodies instituting disciplinary proceedings shall inform each other thereof by attaching the decision on instituting disciplinary proceedings.

#### **Article 142. Reasons for instituting disciplinary proceedings against a judge**

1. The reasons for instituting disciplinary proceedings are the following:

- (1) communications from state or local self-government bodies or officials;
- (2) mass media publications about disciplinary violations;
- (3) independent discovery, by the person instituting the proceedings, during the exercise of his or her powers, of an act that gives rise to disciplinary action.

2. Communications submitted with a view to instituting disciplinary proceedings, except for mass media publications, must contain the following:

- (1) name, surname, notification address of the person submitting it, and data on the judge against whom disciplinary proceedings may be instituted;
- (2) description of acts considered to be disciplinary violations and place and time of the commission thereof;
- (3) if available, materials supporting the submitted data;
- (4) signature of the person or body having submitted the communication.

3. Where several communications concern the same judge and the same disciplinary violation, they shall be joined in one set of proceedings.

4. The bodies instituting disciplinary proceedings shall return any communication not complying with part 2 of this Article within 7 days from the moment of receipt thereof, indicating the mistakes that were made.

5. Where the submitted communication complies with the requirements of part 2 of this Article and contains sufficient grounds for instituting disciplinary proceedings, the body instituting disciplinary proceedings shall, within one month from the moment of receipt of the communication, make a decision on instituting disciplinary proceedings; otherwise, it shall reject the communication within one month, justifying the rejection.

6. If, at the moment of submission of the communication prescribed by part 1 of this Article, there is less than one month left before the expiry of the time limit prescribed by part 1 of Article 140 of this Code, then from the moment of submission of the communication, said time limit shall be extended for one month.

7. Instituting disciplinary proceedings may be rejected also in the case when the body instituting disciplinary proceedings is informed that an earlier decision on instituting disciplinary proceedings on the ground of the same disciplinary violation was rendered by the other body instituting disciplinary proceedings.

8. In the case prescribed by part 6 of this Article, the body instituting disciplinary proceedings may request information relevant to the case from the persons having submitted the communication.



9. The decision on instituting disciplinary proceedings shall, within a period of three days, be sent to the person having submitted the communication, the relevant judge and the other body instituting disciplinary proceedings.

**Article 143. Process of instituting disciplinary proceedings against a judge**

1. The duration of instituted disciplinary proceedings may not be longer than six weeks, except where the judge is absent. The duration of disciplinary proceedings may be extended for a period equal to the duration of the absence of the judge.

2. In the course of the instituted disciplinary proceedings, the body instituting the proceedings shall be entitled to:

- (1) demand from the court and study materials of any criminal, civil or any other case in which there is a judicial act entered into force;
- (2) have reading access at the court to the materials of any criminal, civil or any other case in which no judicial act entered into force has yet been rendered;
- (3) recommend that the judge submit written explanations;
- (4) summon and hear witnesses;
- (5) demand and receive materials from state and local self-government bodies and officials;
- (6) address — with a recommendation to provide additional clarifications — the person who submitted the communication based on which disciplinary proceedings were instituted. State and local self-government bodies and officials shall be obliged to provide clarifications.

3. A judge against whom disciplinary proceedings have been instituted shall be entitled to:

- (1) submit written explanations;
- (2) have reading access to, take excerpts from and make copies of the materials serving as a basis for examination of the matter by the body instituting disciplinary proceedings;
- (3) participate, in person or via an advocate, in the considerations carried out by the body instituting disciplinary proceedings, ask the speakers questions, make recommendations, give explanations and file motions;
- (4) submit evidence and participate in the examination thereof;

4. As a result of the scrutiny carried out, the body instituting the proceedings shall take either of the following decisions:

- (1) decision on dismissing disciplinary proceedings;
- (2) decision on suspending disciplinary proceedings;
- (3) decision on filing a motion requesting the Supreme Judicial Council to impose disciplinary action against a judge.

5. The body instituting disciplinary proceedings shall dismiss the process of instituting proceedings for imposing disciplinary action against a judge, where:

- (1) there are no grounds for filing a motion requesting the Supreme Judicial Council to impose disciplinary action against the judge;

(2) a motion to impose disciplinary action has been filed with the Supreme Judicial Council within the scope of earlier disciplinary proceedings instituted on the ground of the same disciplinary violation;

(3) his or her powers have been imposingly or automatically terminated.

6. In the case of being informed that earlier disciplinary proceedings have been instituted on the ground of the same disciplinary violation, the body instituting disciplinary proceedings shall suspend the instituted disciplinary proceedings until the solution of that issue. In the case the other body instituting disciplinary proceedings dismisses the proceedings and in the case of presence of sufficient grounds for disciplinary action, the body instituting disciplinary proceedings shall restart the suspended disciplinary proceedings.

7. Bodies instituting disciplinary proceedings shall inform each other about the dismissal of the disciplinary proceedings. After deciding to dismiss the disciplinary proceedings, the person who instituted the proceedings may not institute proceedings again on the same ground.

8. The person instituting the proceedings, the witnesses having participated in the proceedings and other persons must maintain the confidentiality of the disciplinary proceedings. All documents communicated within the framework of the disciplinary proceedings must be sent in closed envelopes marked "official".

#### **Article 144. Filing a motion requesting the Supreme Judicial Council to impose disciplinary action against a judge**

1. The body instituting disciplinary proceedings shall file a motion with the Supreme Judicial Council to impose disciplinary action against a judge, attaching thereto the opinion on disciplinary violation.

2. An opinion on disciplinary violation shall be composed of introductory, descriptive/argumentative and concluding parts.

3. The introductory part shall contain the name of the person instituting the disciplinary proceedings, the name and surname of the judge and his or her representative.

4. In the descriptive/argumentative part, the person instituting disciplinary proceedings shall describe each act considered as a disciplinary violation committed by the judge, the information in support of the commission of that act, the reasons for qualifying the act as a disciplinary violation, including the existence and type of the judge's guilt in the committed act, the circumstances characterising the judge, the evidence confirming his or her guilt, the arguments brought in his or her defence and the evidence gathered as a result of checking those arguments.

5. The concluding part shall contain the type of the disciplinary violation and its wording, indicating the disciplinary penalty measure to be applied.

6. Where the same judge has committed several disciplinary violations, he or she shall be subject to disciplinary action for the commission of that violation to which the strictest of the disciplinary penalties applies.

7. The person instituting disciplinary proceedings shall sign the opinion on disciplinary violation, indicating the month, day and year of drawing up said opinion.

8. Materials obtained in the course of institution of disciplinary action shall, along with the opinion on disciplinary violation, be attached to the motion to impose disciplinary action.

9. Before sending the motion to impose disciplinary action and the attached materials to the Supreme Judicial Council, the judge against whom the proceedings have been instituted shall be entitled to have reading access to them. The opinion on the disciplinary violation and the materials shall be delivered to the judge not later than two weeks before the time limit prescribed for the duration of the instituted disciplinary proceedings. Within a week of receiving the materials, the judge shall be entitled to submit additional explanations or file a motion to perform additional verifications. Based on the additional explanations of the judge or his or her motion to perform additional verifications, the person who has instituted the proceedings shall have the right to change his or her opinion, unless it aggravates the situation of the judge.

10. In the case of attaching additional evidence to the motion to change the opinion on disciplinary violation or to impose disciplinary action as prescribed by part 7 of this Article, said evidence shall be sent to the judge within one day.

11. As soon as the motion to impose disciplinary action has been sent to the Supreme Judicial Council, the body having instituted the proceedings may no longer withdraw it.

12. Within a week of receiving the materials of the disciplinary proceedings, the judge shall be entitled to send a response to the Supreme Judicial Council. Failure by the judge to send a response shall not obstruct the examination of the disciplinary case against the judge by the Supreme Judicial Council.

#### **Article 145. Disciplinary penalties applicable to judges**

1. As an outcome of the examination of the matter of disciplinary liability of a judge, the Supreme Judicial Council may impose one of the following types of disciplinary penalties against the judge:

- (1) warning;
- (2) reprimand;
- (3) severe reprimand.

2. A warning shall be applied by the Supreme Judicial Council for a disciplinary violation of the least gravity, unless there is another penalty imposed against the judge.

3. The disciplinary penalty imposed on a judge shall be proportionate to the committed violation. When applying a disciplinary penalty, the Supreme Judicial Council shall, among other factors, take into account the consequences of the violation, the personal characteristics of the judge, the degree of the guilt, the imposed penalties and other noteworthy circumstances characterising the judge.

4. If no new disciplinary penalty has been imposed against a judge within two years after the date of receiving a severe reprimand, or within one year after the date of receiving a reprimand, or within six months after the date of receiving a warning, it shall be considered that no disciplinary penalty is imposed against the judge.

#### **Article 146. Examination of motions to impose disciplinary action against a judge**

1. When examining matters of imposing disciplinary action against a judge, the Supreme Judicial Council shall act as a court.

2. The matter of imposing disciplinary action against a judge shall be examined in a public session, except for cases when, by the decision of the Supreme Judicial Council, they are closed to the public in order to protect the privacy of the participants in the proceedings, the

interests of justice, as well as national security, public order or morality, and to keep other information guarded by law secure.

3. A member of the Supreme Judicial Council may recuse himself or herself.
4. The body having instituted disciplinary proceedings, the judge and the members of the Supreme Judicial Council may file a motion for a member of the Supreme Judicial Council to recuse himself or herself.
5. The Supreme Judicial Council shall, considering the matter of self-recusal of a member of the Council, in the case of existence of grounds for self-recusal prescribed by this Code, render a decision on self-recusal of the member of the Supreme Judicial Council. Said member of the Supreme Judicial Council cannot attend and vote in the session concerning the case in question.
6. The obligation to prove that there are grounds to impose disciplinary action against a judge shall rest with the body having instituted the proceedings. In a session of the Supreme Judicial Council, any unresolved doubts as to the disciplinary violation committed by a judge shall be interpreted in favour of the judge.
7. The Supreme Judicial Council shall examine the matters of imposing disciplinary action against a judge within one month following the receipt of the motion to impose disciplinary action against a judge.

#### **Article 147. Procedure for examining the matter of imposing disciplinary action in the Supreme Judicial Council**

1. The examination of the matter in the Supreme Judicial Council shall start with the report of the person having instituted the proceedings, which shall cover the essence of the matter and the opinion on the disciplinary violation. If the disciplinary proceedings against a judge were instituted by the Minister of Justice, the latter shall be obliged to be present at the session of the Supreme Judicial Council and shall be entitled to act in person or via a co-worker. If the disciplinary proceedings were instituted by the Ethics and Disciplinary Commission of the General Assembly of Judges, the opinion on the disciplinary violation shall be reported at the session of the Supreme Judicial Council by one of the members of the Disciplinary Commission of the General Assembly of Judges as assigned by the latter.
2. Where, after sending the materials of disciplinary proceedings to the Supreme Judicial Council, the person having instituted the proceedings has discovered circumstances that mitigate the situation of the judge or exclude the imposition of disciplinary action against him or her, the person having instituted the proceedings must inform the Supreme Judicial Council thereof.
3. Following the report, in the Supreme Judicial Council, of the person who instituted the proceedings, the Council shall hear the explanations of the judge against whom the proceedings were instituted. In the Supreme Judicial Council, the judge shall provide an explanation about each violation indicated in the opinion on the disciplinary violation. He or she may deny the fact of committing the act considered as a disciplinary violation, challenge the qualification of the act as a disciplinary violation, or do both simultaneously. Where the judge does not challenge the factual existence of a disciplinary violation and agrees with the qualification of the act as a disciplinary violation, the Supreme Judicial Council shall immediately proceed with the consideration of the matter of imposing a disciplinary penalty against the judge.
4. Where the judge challenges the fact of committing a disciplinary violation, the Supreme Judicial Council shall, after hearing his or her explanations, proceed with the examination of the materials of the proceedings and the evidence.

5. The Supreme Judicial Council also shall be entitled to summon, on its own initiative, and interrogate witnesses in its sessions. In case a witness fails to appear before the Supreme Judicial Council, the latter may render a decision on apprehending the witness.

6. The Supreme Judicial Council shall warn any summoned witnesses about the liability prescribed in the case of refusing or avoiding to testify, or giving manifestly false testimony, and shall warn any summoned experts about the liability prescribed in the case of refusing or avoiding to give an opinion, or giving a manifestly false opinion.

7. The Supreme Judicial Council shall also be entitled to demand evidence on its own initiative.

8. After examining the case materials, the Supreme Judicial Council shall hear the closing speeches of the persons participating in the session, after which the session shall be declared to be closed.

9. The Supreme Judicial Council shall put the issues of whether a disciplinary violation is the case and which type of disciplinary penalty shall be applied up for a vote.

**Article 148. Scope of the examination of the matter of imposing disciplinary action against a judge in the Supreme Judicial Council**

1. The Supreme Judicial Council shall examine the matter of imposing disciplinary action against a judge only against the judge and only within the limits of the disciplinary violation with regard to which a motion to impose disciplinary action has been filed with the Supreme Judicial Council.

**Article 149. Rights and responsibilities of a judge during the examination, in the Supreme Judicial Council, of the matter of imposing disciplinary action against him or her**

1. A judge shall be entitled to:

(1) have reading access to, take excerpts from and make copies of the materials serving as a basis for the examination of the matter in the Supreme Judicial Council;

(2) ask the speakers questions, file objections, give explanations and file motions;

(3) submit evidence and participate in its examination;

(4) participate in the session in person, as well as via an advocate.

2. An advocate of a judge shall, in all cases, be entitled to participate in the examination, in the Supreme Judicial Council, of the matter concerning the judge and shall enjoy the rights provided for by part 1 of this Article.

3. During the examination by the Supreme Judicial Council of the matter of imposing disciplinary action against a judge, the judge shall enjoy the guarantees provided for by Article 61 of the Constitution of the Republic of Armenia and paragraph 1 of Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

4. If a judge fails to appear without good reason when summoned by the Supreme Judicial Council, the Supreme Judicial Council shall be entitled to examine the matter of imposing disciplinary action against the judge in the absence of the latter.

**Article 150. Decision of the Supreme Judicial Council on imposing disciplinary action against a judge**

1. Within the scope of examination of one set of disciplinary proceedings, even if the same judge has committed several disciplinary violations, the Supreme Judicial Council shall render one decision.
2. When imposing disciplinary action against a judge, the session of the Supreme Judicial Council shall have a quorum if two-thirds of the members of the Council are present.
3. The decision shall be adopted only in the presence of the members of the Supreme Judicial Council. The decision shall be adopted in a secret ballot, by at least two-thirds of the votes of all the members of the Supreme Judicial Council.
4. The issues discussed with a view to adoption of a decision by the Supreme Judicial Council, the position expressed by the Council members and the results of the voting shall not be published, neither during the session, nor after the examination of the case has been completed, except when a Council member delivers a special opinion within the scope of the position expressed by the Council member.
5. As an outcome of the examination of the matter of imposing disciplinary action against a judge, the Supreme Judicial Council may render one of the following decisions:
  - (1) imposing on the judge a disciplinary penalty provided by this Code;
  - (2) dismissing the case proceedings.

**Article 151. Grounds for the Supreme Judicial Council to dismiss the proceedings for imposing disciplinary action against a judge**

1. The Supreme Judicial Council shall dismiss the matter of imposing disciplinary action against a judge, where:
  - (1) there is no substantiated ground for imposing disciplinary action against the judge;
  - (2) the body having instituted proceedings has violated time limits prescribed by this Code for disciplinary proceedings against a judge, if the judge agrees to the dismissal of the proceedings on this ground;
  - (3) his or her powers have imposingly or automatically terminated.

**Article 152. Requirements for and publication of decisions of the Supreme Judicial Council on imposing disciplinary action against a judge**

1. A decision of the Supreme Judicial Council on imposing disciplinary action against a judge shall be composed of introductory, descriptive/argumentative and concluding parts.
2. The introductory part of a decision of the Supreme Judicial Council on imposing disciplinary action against a judge shall indicate the following:
  - (1) the name and composition of the Supreme Judicial Council;
  - (2) the place and date of examination of the matter by the Supreme Judicial Council;
  - (3) the name, surname and position of the judge against whom the disciplinary proceedings were instituted;
  - (4) the name, surname, and position of the person who instituted the proceedings;

(5) names of the participants in the case;

3. The descriptive/argumentative part of a decision of the Supreme Judicial Council on imposing disciplinary action against a judge shall indicate the following:

(1) content of the opinion on the disciplinary violation;

(2) circumstances of essential significance for the case;

(3) the stance of the person or — in the case provided by this Code — of the representative of the person having instituted the proceedings;

(4) the explanations of the judge against whom the proceedings were instituted;

(5) the explanations and testimonies of the persons summoned to the session of the Supreme Judicial Council;

(6) the conclusions of the court with regard to the disciplinary violation and the guilt of the judge, the circumstances characterising the personality of the judge;

(7) the evidence underlying the conclusions of the Supreme Judicial Council, as well as the arguments for considering the specific evidence as unreliable;

(8) legal provisions by which the Supreme Judicial Council was guided when adopting the decision.

4. The concluding part of a decision of the Supreme Judicial Council on imposing disciplinary action against a judge shall bear on the decision of the Supreme Judicial Council.

5. After announcing that the examination of the case has been completed, the Supreme Judicial Council shall announce the date, venue and hour of pronouncing the decision. The decision on imposing disciplinary action against a judge shall be drawn up and published within 15 days after announcing that the examination of the case has been completed.

6. Upon taking a decision on imposing disciplinary action against a judge, the member of the Supreme Judicial Council may deliver a special opinion which shall be published along with the decision of the Supreme Judicial Council on the official website of the judiciary of the Republic of Armenia and in the Official Journal of the Republic of Armenia.

7. A decision of the Supreme Judicial Council on imposing disciplinary action against a judge shall enter into force from the moment of publication.

8. The judge against whom disciplinary action has been imposed may, in the case of presence of relevant grounds, appeal to the Constitutional Court of the Republic of Armenia with the request to review the constitutionality of the regulatory legal act applied against him or her by the decision of the Supreme Judicial Council on imposing disciplinary action against him or her.

9. The decision shall be sent to the body having instituted disciplinary proceedings and to the judge within five days following its publication.

10. The decisions of the Supreme Judicial Council shall be published in the Official Journal of the Republic of Armenia and on the official website of the judiciary of the Republic of Armenia.

**Article 153. Review by the Supreme Judicial Council of decisions on imposing disciplinary action against a judge on the basis of newly emerged or new circumstances**

1. On the basis of newly emerged or new circumstances, the Supreme Judicial Council may review its decision on imposing disciplinary action against a judge.
2. Newly emerged circumstances shall be a basis for reviewing a decision, where:
  - (1) the person having filed a motion to review the decision of the Supreme Judicial Council proves that those circumstances existed at the time of disposition of the case, were not known and could not have been known to the person having filed the motion and to the Supreme Judicial Council, and that those circumstances are of essential significance for the disposition of the case;
  - (2) false testimonies of a witness, a manifestly false opinion of an expert, manifestly incorrect translation by a translator, fabricated written or material evidence, confirmed as such by a court's criminal judgment having entered into force, have resulted in delivering an unlawful or ungrounded decision;
  - (3) it has been confirmed by a court's criminal judgment having entered into force that persons or representatives of persons participating in the disciplinary proceedings have committed a criminal act with regard to the examination of the case, which has resulted in delivering an unlawful or ungrounded decision, or a criminal act with regard to the examination of the case has been committed by a member of the Supreme Judicial Council.
3. New circumstances shall be a basis for reviewing a decision, where:
  - (1) the Constitutional Court of the Republic of Armenia has declared the provision of the law or other regulatory legal act applied in the case in question as contradicting the Constitution of the Republic of Armenia and as invalid or has declared it as complying with the Constitution of the Republic of Armenia, but when expanding — in the concluding part of its decision — on the constitutional meaning of that provision, has found that the provision applied in that case was given a different interpretation;
  - (2) a judgment or a decision, having entered into force, of an international court of which the Republic of Armenia is a member has confirmed the fact that the judge's right provided for by an international treaty of the Republic of Armenia has been violated;
  - (3) the Administrative Court has declared the relevant regulatory legal act — which served as a basis for taking the decision in question — as invalid from the moment of its entry into force.
4. A motion for revision based on newly emerged or new circumstances may be filed within 3 months from the moment of emergence of the grounds prescribed by parts 2 and 3 of this Article, provided that twenty years have not passed since the entry into force of the decision of the Supreme Judicial Council.
5. A motion to review the decision of the Supreme Judicial Council may be submitted by the body having instituted disciplinary proceedings against the judge or by the judge against whom the decision on imposing disciplinary action was rendered.
6. The obligation to prove the circumstances that serve as a ground to review the decision of the Supreme Judicial Council on imposing disciplinary action against a judge shall rest with the person having filed the motion.
7. If the Supreme Judicial Council finds that there are no grounds to review the decision on imposing disciplinary action against a judge on the basis of newly emerged or new



circumstances, it shall render a decision on upholding the decision on imposing disciplinary action against a judge.

8. If there are grounds to review the decision of the Supreme Judicial Council on imposing disciplinary action against a judge on the basis of newly emerged or new circumstances, the Supreme Judicial Council shall revoke its decision and render a new one.

**Article 154. Disciplinary liability of persons included in a list of judge candidates**

1. When receiving a communication about a person included in a list of judge candidates violating the rules of conduct provided by this Code or discovering a fact of such violation when examining another matter within the scope of its powers, the Ethics and Disciplinary Commission shall organise a discussion, engaging in it the person having committed that violation.

2. Where, after the discussion, the Ethics and Disciplinary Commission finds that there are sufficient grounds for imposing disciplinary action, it shall institute disciplinary proceedings.

3. The Supreme Judicial Council may, following the examination of the matter of imposing disciplinary action against persons included in a list of judge candidates, apply one of the following disciplinary penalties:

- (1) warning;
- (2) reprimand;
- (3) severe reprimand;
- (4) removing a person from the list of judge candidates.

4. The provisions of this Chapter shall extend to the procedure for disciplinary action against persons included in a list of judge candidates insofar as they are, in their essence, applicable to the persons included in a list of judge candidates.

**CHAPTER 19  
TERMINATION OF THE POWERS OF A JUDGE**

**Article 155. Termination of the powers of a judge**

1. The powers of a judge shall be terminated upon the decision of the Supreme Judicial Council if:

- (1) he or she has violated the incompatibility requirements prescribed by this Code;
- (2) has engaged in political activities;
- (3) due to temporary incapacity for work, he or she has been unable to perform his or her official duties for more than four consecutive months, or for more than six months during a calendar year;
- (4) he or she has acquired, following the appointment, a physical impairment or disease that hinders his or her appointment to the position of a judge;
- (5) has committed a gross disciplinary violation.

2. Where there are grounds provided for by points 3 and 4 of part 1 of this Article, the chairperson of relevant court shall inform the Supreme Judicial Council thereon.

3. In case of prima facie availability of the ground provided for by point 4 of part 1 of this Article, the chairperson of relevant court shall apply to the Minister of Justice for organising the medical examination of the judge by a competent authority. The judge shall be obliged to undergo the medical examination. If the medical examination establishes the availability of the ground provided for by point 4 of part 1 of this Article, the chairperson of relevant court shall inform the Supreme Judicial Council thereon.

4. The powers of a judge may be terminated on the ground of the gross disciplinary violation prescribed by point 5 of part 1 of this Article if the fact of committing gross disciplinary violation by the judge is established during the disciplinary proceedings.

5. If the Supreme Judicial Council does not consider as justified the conclusion on committing a gross disciplinary violation but the act attributed to the judge contains elements of disciplinary violation, a disciplinary penalty shall be applied.

6. The following shall constitute a gross disciplinary violation:

(1) committal of disciplinary violations prescribed by this Code by a judge having been imposed two warnings or a strict warning for intentional committal of disciplinary violations;

(2) committal of disciplinary violations prescribed by this Code by a judge having been imposed three warnings or a strict warning for the committal of disciplinary violations by gross negligence;

(3) committal by a judge of acts which dishonour the judiciary or are incompatible with the position of a judge.

7. The norms of the proceedings on subjecting a judge to disciplinary liability shall be applied to the proceedings on terminating the powers of a judge on the grounds of parts 1 and 2 of this Article relating to the termination of powers of a judge and to the decision-making procedure, as well as to the review of the decisions of the Supreme Judicial Council.

8. As a result of discussing the issue on terminating the powers of a judge, the Supreme Judicial Council shall adopt a decision on terminating the powers of a judge or dismissing the proceedings.

9. The Supreme Judicial Council shall dismiss the proceedings on terminating the powers of a judge, if:

(1) the ground for terminating the powers of a judge is not justified;

(2) the powers of a judge have been discontinued.

10. If the Supreme Judicial Council repeals the decision on terminating the powers of a judge based on newly emerged or new circumstances, it shall adopt a decision on reinstating that judge in his or her former position. In case of an appointment made prior to the reinstatement and non-availability of other vacant positions of a judge in the given court, the reinstated judge shall obtain the status of a redundant judge.

**CHAPTER 20**  
**DISCONTINUATION OF THE POWERS OF A JUDGE**

**Article 156. Discontinuation of the powers of a judge**

1. Upon the decision of the Supreme Judicial Council, the powers of a judge shall be discontinued if he or she:

- (1) files a resignation;
- (2) has attained the age of 65 (retirement age);
- (3) has been declared as having no active legal capacity, missing or dead, based on the civil judgment of the court entered into legal force;
- (4) has lost the citizenship of the Republic of Armenia or has acquired the citizenship of another state;
- (5) has been imposed a criminal judgment of conviction of the court, entered into legal force, or his or her criminal prosecution has been terminated on a non-acquittal ground;
- (6) has died.

5. Pursuant to points 1 and 6 of part 4 of this Article, the term of office of a judge shall expire on the day of filing a resignation or his or her death.

6. Pursuant to point 2 of part 4 of this Article, the term of office of a judge shall expire on the next day of attaining thereby the age of 65.

7. Pursuant to points 3 and 5 of part 4 of this Article, the term of office of a judge shall expire from the day of the entry into force of relevant civil judgment, criminal judgment of the court or the decision on terminating the criminal prosecution.

8. According to point 4 of part 4 of this Article, the term of office of a judge shall expire on the next day of losing thereby the citizenship of the Republic of Armenia or acquiring the citizenship of another state.

9. If the Supreme Judicial Council repeals the decision on discontinuation of the powers of a judge based on newly emerged or new circumstances, as well as where the relevant civil judgment, criminal judgment of the court or the decisions on terminating the criminal prosecution, adopted according to points 3 and 5 of part 4 of this Article, are abolished, a decision shall be adopted on reinstating this judge in his or her former position. In case of an appointment made prior to the reinstatement and non-availability of other vacant positions of a judge in the given court, the reinstated judge shall obtain the status of a redundant judge.

**CHAPTER 21**  
**APPEALING AGAINST THE RESULTS OF PERFORMANCE EVALUATION OF A JUDGE**

**Article 157. The procedure for consideration of complaints on the decisions of the Evaluation Commission in the Supreme Judicial Council**

1. In the course of consideration of complaints on the decisions of the Evaluation Commission, the Supreme Judicial Council shall act as a court.

2. The consideration of complaints on the decisions of the Evaluation Commission shall be carried out under a written procedure.
3. The judge lodging a complaint with the Supreme Judicial Council shall submit, at the same time, the carbon copy thereof to the Evaluation Commission. The document attesting the carbon copy of the complaint as having been sent to the Evaluation Commission shall be attached to the complaint.
4. Within one working day following the receipt of the carbon copy of the complaint, the Evaluation Commission shall submit to the Staff of the Supreme Judicial Council the performance evaluation file of the judge having lodged a complaint. The Evaluation Commission shall be entitled also to deliver a response within a period of three days upon receipt of the complaint.
5. The member of the Supreme Judicial Council may recuse himself or herself in respect of the consideration of an issue. The judge, the Chairperson of the Evaluation Commission or the person acting under his or her authorisation, and the members of the Supreme Judicial Council may file a motion on the self-recusal of the member of the Supreme Judicial Council to the Chairperson of the Supreme Judicial Council or the person presiding the session. In the event of self-recusal, the given member of the Supreme Judicial Council may not attend the session on the given case and vote.
6. The Supreme Judicial Council shall consider the complaints on the decisions of the Evaluation Commission within a period of ten days following the receipt of the performance evaluation file of the judge having lodged a complaint.
7. The sessions of the Supreme Judicial Council on the appealed decisions of the Evaluation Commission shall be open. The sessions shall be held behind closed doors upon the decision of the Supreme Judicial Council, for the protection of the private life of the participants of the proceedings, the interests of justice, as well as state security, public order or morality, as well as other information guarded by law.
8. After opening the session of the Supreme Judicial Council, the person presiding the session shall introduce the summary of the complaint, whereas in case of an answer submitted — also the summary thereof, whereafter the Supreme Judicial Council shall proceed with the examination of the case materials and evidence.
9. The Supreme Judicial Council may, if necessary, involve and hear at the session the judge having lodged a complaint and the Evaluation Commission.
10. The Chairperson of the Evaluation Commission or any member of the Evaluation Commission authorised thereby shall act on behalf of the Evaluation Commission in the Supreme Judicial Council. Other members of the Evaluation Commission shall attend the session upon the request of the Supreme Judicial Council.
11. During the case examination, the judge and the respective representative of the Evaluation Commission shall avail of the rights prescribed by part 1 of Article 149 of this Code.

**Article 158. Decisions of the Supreme Judicial Council on the consideration of complaints lodged against the decisions of the Evaluation Commission**

1. As a result of consideration of the case on the complaints lodged against the decisions of the Evaluation Commission, the Supreme Judicial Council shall adopt one of the following decisions:
  - (1) to grant the complaint and repeal the decision of the Evaluation Commission;
  - (2) to reject the complaint;

(3) to dismiss the case proceedings.

2. The Supreme Judicial Council shall dismiss the case on the consideration of complaints lodged against the decisions of the Evaluation Commission, where:

(1) the judge has withdrawn the complaint prior to adopting a decision by the Supreme Judicial Council;

(2) the powers of the judge have been terminated or discontinued.

3. The decision of the Supreme Judicial Council regarding the case on the complaints lodged against the decisions of the Evaluation Commission shall consist of introductory, descriptive and reasoning, as well as concluding parts.

4. The following shall be indicated in the decision of the Supreme Judicial Council:

(1) the name and composition of the Supreme Judicial Council;

(2) the place and date of consideration of relevant issue at the Supreme Judicial Council;

(3) the name, surname, and position of a judge having lodged a complaint;

(4) the name, surname, and position of the respective representative of the Evaluation Commission;

(5) the names, surnames and patronymic names of other persons invited to participate in the case and their status during the case examination;

(6) circumstances of essential significance for the case;

(7) the content of the complaint and response;

(8) the explanations and testimonies of the persons summoned to the session of the Supreme Judicial Council;

(9) the conclusions of the Supreme Judicial Council;

(10) the evidence underlying the conclusions of the Supreme Judicial Council, as well as the arguments on considering the specific evidence as non-authentic;

(11) the norms of law which the court was guided by when adopting a decision;

(12) the text of the adopted decision shall be indicated in the concluding part of the decision of the Supreme Judicial Council.

5. The decision on the results of consideration of complaints lodged against the decisions of the Evaluation Commission shall be adopted within five days following the completion of case examination.

6. When adopting a decision, the member of the Supreme Judicial Council may deliver a special opinion. The issues discussed for the adoption of a decision by the Supreme Judicial Council, the position delivered by the members of the Council and the results of voting shall not be subject to publication both during the session and after the completion of the case examination, except for the special opinion introduced by the member of the Council within the framework of the position delivered by the member of the Council.

7. The decision of the Supreme Judicial Council on the complaints lodged against the decisions of the Evaluation Commission shall enter into force upon the adoption thereof. Within a period of three days following the adoption of the decision, the Staff of the Supreme Judicial Council shall publish it on the official Internet website of the judiciary and send the carbon copy of the decision to the judge having lodged a complaint and the Evaluation Commission.

**CHAPTER 22.**  
**CONSIDERATION OF AND DECIDING ON THE ISSUE, AT THE SUPREME**  
**JUDICIAL COUNCIL, OF GIVING CONSENT FOR INITIATING CRIMINAL**  
**PROSECUTION AGAINST A JUDGE OR DEPRIVING HIM OR HER OF**  
**LIBERTY WITH RESPECT TO EXERCISE OF HIS OR HER POWERS**

**Article 159. Proposal on giving consent for initiating criminal prosecution against a judge or depriving him or her of liberty**

1. The Prosecutor General of the Republic of Armenia shall apply to the Supreme Judicial Council with regard to the issue of giving consent for initiating criminal prosecution against a judge or depriving him or her of liberty with respect to the exercise of his or her powers.

2. The Prosecutor General of the Republic of Armenia shall submit to the Supreme Judicial Council all the materials having served as a ground for giving consent for initiating criminal prosecution against a judge or depriving him or her of liberty.

3. In case of applying to the Supreme Judicial Council with regard to the issue of giving consent for initiating criminal prosecution against a judge or depriving him or her of liberty by the Prosecutor General of the Republic of Armenia, the Chairperson of the Supreme Judicial Council shall immediately convene a session of the Supreme Judicial Council.

4. The Supreme Judicial Council shall adopt a decision on the issue of giving consent for initiating criminal prosecution against a judge or depriving him or her of liberty not later than on the next day following the entry of the application of the Prosecutor General of the Republic of Armenia.

5. The Supreme Judicial Council shall adopt a decision on the issue of giving consent for initiating criminal prosecution against a judge or depriving him or her of liberty, by reasonably avoiding to recess or delay the session.

6. The decision of the Supreme Judicial Council on giving consent for initiating criminal prosecution against a judge or depriving him or her of liberty shall not imply establishment of the fact of availability of the grounds for initiating criminal prosecution against a judge or depriving him or her of liberty and shall not restrain the competent court from deciding on the issue as prescribed by law.

7. A proposal on initiating criminal prosecution against a judge or depriving him or her of liberty may not be made to the Supreme Judicial Council for the second time on the same ground.

8. Where following the receipt of the consent of the Supreme Judicial Council to involve a judge as an accused a necessity arises as to changing the extent of the charge so that it deteriorates or may deteriorate the state of the judge, this may be done only in observance of the procedure provided for by this Article.

**Article 160. Suspension of the powers of a judge in case of giving consent for initiating criminal prosecution against a judge or depriving him or her of liberty**

1. Upon the entry into force of the decision on giving consent, by the Supreme Judicial Council, for initiating criminal prosecution against a judge or depriving him or her of liberty, the

powers of the judge shall be considered suspended for a period designed for the conduct of preliminary investigation and trial.

2. The judge shall, during the period of suspension of his or her powers, receive compensation as in case of idleness ensued out of the fault of the employee.

**Article 161. Procedure for considering the issue of giving consent for initiating criminal prosecution against a judge or depriving him or her of liberty and taking a decision by the Supreme Judicial Council**

1. The consideration of the issue of giving consent for initiating criminal prosecution against a judge or depriving him or her of liberty shall be held behind closed doors, except for the cases when it is held in open session upon the request of the judge.

2. During the consideration of the issue of giving consent for initiating criminal prosecution against a judge or depriving him or her of liberty with respect to the exercise of his or her powers, the Prosecutor General of the Republic of Armenia shall be obliged to attend the session of the Supreme Judicial Council and personally deliver his or her position.

3. During the consideration of the proposal on giving consent for initiating criminal prosecution against a judge or depriving him or her of liberty, the judge shall have the right to get familiarised with the materials serving as a ground for considering the issue at the Supreme Judicial Council, take excerpts, receive the carbon copies thereof, ask questions, make recommendations, give explanations and file motions, as well as attend the session by acting in person or through a lawyer.

4. During the consideration of the issue of giving consent for initiating criminal prosecution against a judge or depriving him or her of liberty, the lawyer of the judge shall in all cases have the right to attend the considerations of the issue conducted in respect of the given judge at the Supreme Judicial Council.

5. The lawyer shall in all cases have the right to get familiarised with the materials serving as a ground for considering the issue, take excerpts, receive the carbon copies thereof, except for the data containing privileged information of preliminary investigation, ask questions, make objections, give explanations and file motions, as well as submit evidence and participate in the examination thereof.

6. During the consideration of the issue on giving consent for initiating criminal prosecution against a judge or depriving him or her of liberty, the judge shall have the right to give explanations to the Supreme Judicial Council.

7. In case of depriving a judge of liberty, the Prosecutor General of the Republic of Armenia shall ensure the participation of the judge in the session of the Supreme Judicial Council.

8. If the judge fails to appear at the session of the Supreme Judicial Council, the Supreme Judicial Council shall have the right to consider the issue on giving consent for initiating criminal prosecution against a judge or depriving him or her of liberty in the absence of the judge.

9. Where the judge fails to appear at the session of the Supreme Judicial Council for a valid reason, a public counsel shall, upon the decision of the Supreme Judicial Council, be involved in order to represent the lawful interests of the judge, except for the case where the judge has made a statement on the waiver of the public counsel, which has been approved by the Supreme Judicial Council.

10. As a result of considering the issue on giving consent for initiating criminal prosecution against a judge or depriving him or her of liberty, one of the following decisions shall be adopted:

- (1) on giving consent for initiating criminal prosecution against the judge;
  - (2) on rejecting to give consent for initiating criminal prosecution against the judge;
  - (3) on giving consent for depriving the judge of liberty;
  - (4) on rejecting to give consent for depriving the judge of liberty;
11. Upon adopting a decision on rejecting to give consent for initiating criminal prosecution against a judge or depriving him or her of liberty, the judge shall be immediately released.
12. The decisions of the Supreme Judicial Council shall be adopted pursuant to the rules prescribed for adopting a decision on subjecting the judge to disciplinary liability.
13. The decision on giving consent for initiating criminal prosecution against a judge or depriving him or her of liberty shall enter into force upon its adoption.

## **CHAPTER 22. ENSURING PROPER OPERATION OF COURTS**

### **Article 162. Ensuring proper operation of the Court of Cassation, Court of Appeal and Courts of First Instance**

1. Staff shall be formed in the Court of Cassation, Court of Appeal and Courts of First Instance for the purpose of complete and efficient exercise of powers vested in the aforementioned courts under the Constitution, international treaties and laws.
2. The founder of the staff of a court shall be the Republic of Armenia where the chairperson of relevant court shall act on behalf thereof.
3. The chief of staff of a court shall be appointed by the chairperson of the court.
4. The legal status of the staff of a court and the rules of procedure thereof shall be prescribed by this Code, other laws, the charter of the staff and other legal acts.
5. The structure and charter of the staff of a court, as well as the amendments made thereto shall be approved by the chairperson of the court.

## **CHAPTER 23. FINAL AND TRANSITIONAL PROVISIONS**

### **Article 163. Final and transitional provisions**

1. The Judicial Code of the Republic of Armenia shall enter into force on the day of assumption by the President of the Republic of Armenia of his or her office, except for the provisions on the formation of the Supreme Judicial Council prescribed by this Code.
2. To repeal, upon the entry into force of this Code, the Judicial Code of the Republic of Armenia of 21 February 2007 and the Law of the Republic of Armenia HO-137-N of 22 February 2002 "On the entry into force of the Judicial Code of the Republic of Armenia".
3. The Supreme Judicial Council shall assume its powers on the day of expiry of the powers of the President of the Republic of Armenia.



4. For the purpose of forming the first staff composition of the Supreme Judicial Council, a meeting of the General Assembly shall be convened not later than two months before the expiry of the powers of the President of the Republic of Armenia in order to select the members of the Supreme Judicial Council.

5. For the purpose of being selected as a member of the Supreme Judicial Council by the General Assembly, the relevant candidates shall be self-nominated not later than twenty days before the convocation of the meeting of General Assembly.

6. The General Assembly shall select the self-nominated candidates, taking into consideration the requirements to the selection made by the General Assembly, prescribed by this Code.

7. The National Assembly and the General Assembly shall convene the first session of the Supreme Judicial Council not later than within one week following the replenishment of the complete staff composition.

8. At the first session of the Supreme Judicial Council, the issue of selection of the President of the Council from among the members selected by the General Assembly shall be discussed, during which all members of the Council shall vote.

9. The National Assembly and the General Assembly each shall select three relevant members of the first staff composition of the Supreme Judicial Council for a term of five years, and two members —for a term of three years.