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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

ARMENIA

JUDICIAL CODE WITH DRAFT AMENDMENTS
(CONSOLIDATED VERSION)

AND

EXPLANATORY REPORT TO THE DRAFT AMENDMENTS TO THE
JUDICIAL CODE

Adopted on 7 February 2018

JUDICIAL CODE OF THE REPUBLIC OF ARMENIA

SECTION 1

FUNDAMENTALS OF ORGANISATION AND FUNCTIONING OF JUDICIARY

CHAPTER 1

GENERAL PROVISIONS

Article 1. Subject matter of this Code

1. This Code shall regulate relations pertaining to formation and organisation of activities of the judiciary, except for issues pertaining to formation and organisation of activities of the Constitutional Court.

Article 2. Courts of the Republic of Armenia

1. The Court of Cassation, courts of appeal, courts of first instance of general jurisdiction, as well as specialised courts, shall operate in the Republic of Armenia.

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

- (1) courts of general jurisdiction;
- (2) specialised courts.

3. The specialised courts shall be as follows:

- (1) Administrative Court;
- (2) Court of Bankruptcy.

3) Anticorruption Court.

4. The courts of appeal shall be as follows:

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

Article 3. Judge

1. A judge is a person appointed to the position of a judge of the Court of Cassation, a Court of Appeal or a Court of First Instance as prescribed by the Constitution and this Code.
2. The chairpersons of the courts and of the chambers of the Court of Cassation are judges.

Article 4. Apolitical stance of judges

1. A judge may not be a member or a founder of any political party, hold a position in a political party, deliver speeches on behalf of the political party or otherwise engage in political activities. In public speeches and any other circumstances, a judge must exercise political restraint and neutrality.
2. A judge may participate in elections to the National Assembly and of local self-government bodies only as an elector. A judge may not speak publicly for or against any candidate, political party or alliance of political parties, or otherwise participate in election campaigns.
3. Professional discussions or conclusions on draft regulatory legal acts, as well as opinions voiced and statements made during the discussions on activities of the judiciary, including public ones, shall not be considered as violating the principle of apolitical stance.

Article 5. Incompatibility requirements for the activities of judges

1. A judge may not hold any position not stemming from his or her status in state or local self-government bodies, any position in commercial organisations, engage in entrepreneurial activities or perform other paid work, except for scientific, educational, and creative work.
2. Regulations prescribed by law for public servants with regard to entrepreneurial activities shall apply to judges.
3. A judge must endeavour to manage his or her input in such a way as to minimise the number of cases or criminal proceedings in which he or she has to recuse himself or herself.
4. A judge may occupy a position in a non-commercial organisation, if:
 - (1) his or her activities in such position are performed gratuitously, and
 - (2) that position does not imply disposal of funds, entering into civil law transactions on behalf of the organisation, or representation of the organisation before state or local self-government bodies.
5. A judge may not act as an executor of a will or property trust manager, except when he or she acts so gratuitously in connection with a property of his or her close relative or that of a person under his or her guardianship or curatorship.
6. Within the meaning of this Code, a close relative shall mean:

- (1) the judge's spouse;
- (2) the judge's or his or her spouse's parent;
- (3) the judge's or his or her spouse's child, the child's spouse, full or half (paternal or maternal) brother, sister, grandfather, grandmother, grandchild, great-grandchild;
- (4) the judge's or his or her spouse's brother's or sister's spouse, child;
- (5) the judge's or his or her spouse's adopter or adoptee.

CHAPTER 2

PRINCIPLES OF ORGANISATION AND FUNCTIONING OF COURTS

Article 6. Administration of justice in accordance with the Constitution and laws

1. In the Republic of Armenia, justice shall be administered only by courts in accordance with the Constitution and laws.

2. While administering justice, the practice of the bodies operating on the basis of international human rights treaties ratified by the Republic of Armenia shall be taken into account when interpreting the provisions on fundamental rights and freedoms enshrined by the Constitution.

Article 7. Independence of courts

1. When administering justice and exercising other powers provided for by law when acting as a court, as well as exercising rights stemming from the status of a judge, a judge shall be independent from state and local self-government bodies, officials, natural and legal persons, and shall not be accountable to anyone and, inter alia, shall not be obliged to give any explanations.

2. A court shall examine and decide on a case or a matter (hereinafter referred to as "case") in accordance with the Constitution and law, evaluating the circumstances of the case through his or her inner conviction.

3. State and local self-government bodies and officials shall abstain from actions which may jeopardise or harm the independence of a court or judge.

4. Any interference with the activities of a court or judge in connection with the administration of justice or exercise of other powers provided for by law when acting as a court, as well as exercise of rights stemming from the status of a judge, or disrespectful attitude towards the court shall entail liability provided for by law.

5. The Supreme Judicial Council, based on the statement of a judge with regard to an interference with his or her activities in connection with the administration of justice or exercise of other powers provided for by law when acting as a court, as well as exercise of rights stemming

from the status of a judge, shall file a motion with the competent body for holding the allegedly guilty persons liable. The competent body shall immediately inform the Supreme Judicial Council in writing about the measures taken.

6. The Supreme Judicial Council shall have the right to make an official statement on the measures taken by the competent body, as well as its failure to take relevant measures within a reasonable time limit.

7. Judges shall have the right to form an association as prescribed by law. Every judge shall have the right to join such association.

Article 8. Ensuring the right to judicial protection and to fair trial

1. The activities of courts must be organised in such a way as to ensure effective judicial protection of everyone's rights and freedoms through a fair and public hearing of their case within a reasonable time limit by an independent and impartial court established by law.

Article 9. Examination and disposition of a case within a reasonable time limit

1. The examination and disposition of a case must be carried out within a reasonable time limit.

2. The following shall be taken into account when determining the reasonableness of the duration of examination of a case in a court:

(1) the circumstances of the case, including its legal and factual complexity, the conduct of the participants of the proceedings, and the consequences of a prolonged examination of the case for the participants of the proceedings;

(2) the actions taken by the court for the purpose of carrying out the examination and disposition of the case within the shortest possible time, and their effectiveness;

(3) the total duration of the examination of the case;

(4) the average recommended duration for examination of a case (including by stages) defined by the Supreme Judicial Council.

3. Where a special time limit for examination and disposition of a case is prescribed by law, it shall be examined and disposed of within that time limit. Such time limit may be extended exclusively in cases and in the manner prescribed by law.

Article 10. Equality before the law and the court

1. Everyone shall be equal before the law and the court.

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

3. During the examination of their case, everyone shall have the right to refer, as a

legal argument, to interpretations of laws or other regulatory legal acts contained in a judicial act having entered into force which was rendered by a court of the Republic of Armenia in another case with similar factual circumstances. The court shall consider such legal arguments.

4. In the case of making an interpretation of a legal provision other than the one made by the Court of Cassation in another case with similar factual circumstances, the court shall justify the derogation from the interpretation of the law or other regulatory legal act made by the Court of Cassation.

Article 11. Publicity of judicial proceedings

1. Court sessions shall be open to the public.
2. The judicial proceedings or a part thereof may, in cases and in the manner prescribed by law and upon the decision of the court, be held behind closed doors, for the purpose of protecting the private life of the participants of the proceedings, the interests of minors or of justice, as well as the state security, public order or morals.
3. Court sessions shall be recorded as prescribed by law.
4. Persons present at a court session shall have the right to take short-hand notes and audio-recordings.
5. Photographing or audio-and-video-recording at a court session or broadcasting the court session shall be carried out upon the decision of the court in cases and in the manner prescribed by law.
6. Judicial acts concluding the proceedings at the relevant judicial instance (hereinafter referred to as "conclusive judicial act") and, in cases provided for by law or by the decision of the Supreme Judicial Council, also other judicial acts shall be subject to mandatory publication on the official website of the judiciary.
7. Where the judicial proceedings, or part of them, are held behind closed doors, the concluding part of the conclusive judicial act shall be published on the official website of the judiciary, provided that said concluding part does not contain a secret protected by law.
8. In cases provided for by law, the concluding part of the judicial act shall be disclosed also at the court session.
9. Information on the case and its progress shall be published on the official website of the judiciary, the list and procedure for publication of such information to be defined by the Supreme Judicial Council.
10. 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 on the official website of the judiciary in a depersonalised manner. The Supreme Judicial Council may prescribe other cases of depersonalisation of personal data. The procedure for depersonalisation shall be defined by the Supreme Judicial Council.
11. Everyone shall have the right to become familiar with a completed court case with regard to which a conclusive judicial act has entered into force. A person or their representative may become familiar, in the manner prescribed by law, with any part of judicial proceedings held behind closed doors or with a secret protected by law or an undisclosed or partially disclosed judicial act upon the decision of the court having rendered the judicial act. The court shall make

such a decision where the judicial act, prima facie, relates to the rights or obligations of the applicant.

12. The person and their representative in question shall be warned of the liability for disclosing a secret protected by law and using it in violation of the prescribed procedure, in acknowledgment of which they shall put their signature.

13. Unless it contains a state or official secret, a decision rendered by the Court of Cassation concluding the examination of a cassation appeal accepted for proceedings shall be published also in the manner prescribed by law for publishing the secondary regulatory legal acts.

Article 12. Language of procedure

1. The language of procedure in the Republic of Armenia shall be Armenian.
2. All the documents submitted to the court shall be in Armenian or properly translated into Armenian, except for cases provided for by law.
3. Everyone shall have the right to participate in the procedure in the language they prefer if they provide proper translation into Armenian.
4. State and local self-government bodies and officials must participate in the procedure in Armenian.
5. To an accused who has no command of Armenian, a court shall provide services of a translator at the expense of the state funds, unless the accused wishes to provide the interpretation at his or her own expense.
6. Courts shall provide services of a translator at the expense of state funds to participants of administrative procedure, to persons participating in the case in civil cases and to victims in criminal proceedings where such persons are unable to communicate in Armenian and where they prove that they do not have sufficient means to afford paid translation.
7. Persons with hearing or speech disabilities shall have the opportunity to enjoy the procedural rights with the help of a sign language interpreter in the same manner prescribed by this Article for a translator.
8. The accessibility of procedural documents and judicial acts for persons with visual disabilities participating in criminal proceedings shall be ensured by an assistant at the expense of state funds. Participants of administrative procedure and persons participating in the case in civil cases shall have the right to an assistant at the expense of state funds where they prove that they do not have sufficient means to afford a paid assistant.
9. Where there arises a necessity to provide services of a translator, sign language interpreter, or assistant for a person with a visual disability, the relevant person shall be appointed by the decision of the court. The procedure for the appointment of that person, the amount of and procedure for remuneration thereof shall be established by the Government.

Article 13. Binding nature of judicial acts

1. Courts shall render conclusive judicial acts in the name of the Republic of Armenia.

2. Judicial acts entered into force shall be binding for their addressees.
3. Failure to comply with a judicial act entered into force shall entail liability provided for by law.

Article 14. Appealing against judicial acts and ensuring the right to review

1. The right for the judicial act of a Court of First Instance, not entered into force, to be reviewed under the procedure of appeal shall be ensured in cases and under the procedure provided for by law.

2. The right to file a cassation appeal against the judicial act of a Court of Appeal, not entered into force, shall be ensured in cases and under the procedure provided for by law.

3. Judicial acts entered into force shall be appealed against in cases and under the procedure provided for by law.

Article 15. Composition of the court and rendering of decisions

1. Cases at a Court of First Instance shall be examined by a single judge.

2. At a Court of Appeal, an appeal against a conclusive judicial act shall be examined by a panel of three judges, while appeals against other judicial acts shall be examined by a single judge.

3. Exceptions to parts 1 and 2 of this Article shall be prescribed by law.

4. At the Court of Cassation, a cassation appeal shall be examined by a panel of judges composed of the majority of all the judges of the relevant chamber and in the case of the anti-corruption chamber, the relevant judicial staff of the Court of Cassation.

5. A single judge examining a case shall act as a court. When a case is examined by a panel of judges, the panel shall act as a court.

6. A panel of judges shall adopt its decisions by the majority vote of all the judges of the panel. The Court of Cassation shall adopt its decisions by the majority vote of all the judges of the relevant chamber of the Court of Cassation examining the appeal, and in case of Anti-Corruption Chamber - by the majority of all the judges of the relevant panel of judges examining the appeal. In the event of a tie, the decision shall be adopted in accordance with the procedure prescribed by the relevant procedural code. 7. The Anti-Corruption Chamber of the Court of Cassation shall have panels of judges for examination of corruption crimes and anti-corruption civil cases, each consisting of five judges, who act as the Anti-Corruption Chamber of the Court of Cassation in examining appeals and making decisions.

Article 16. Use of symbols of the Republic of Armenia

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

2. The Coat of Arms of the Republic of Armenia and the flag of the Republic of Armenia shall be placed in the courtrooms and in the separate offices of the judges.

Article 17. Gown, seal, stamp, official electronic mail address and electronic signature of a judge

1. A judge shall participate in a court session wearing a gown.
2. The description of and procedure for provision of the gown of a judge shall be defined by the General Assembly of Judges (hereinafter referred to as "the General Assembly").
3. A judge, except for judges of the Court of Cassation, shall have a seal bearing the image of the Coat of Arms of the Republic of Armenia, the name of the relevant court and the name of the judge.
4. The Court of Cassation shall have a seal bearing the image of the Coat of Arms of the Republic of Armenia and the name of the Court.
5. A stamp bearing the name of the relevant court shall be provided to a judge.
6. The description of and procedure for provision of the seal and the stamp shall be defined by the Supreme Judicial Council.
7. Each judge shall have an official electronic mail address.
8. Each judge shall have an electronic digital signature.

Article 18. Official website of the judiciary

1. The judiciary shall have an official website — www.court.am.
2. The Supreme Judicial Council shall prescribe the structure of the official website of the judiciary taking into account the requirements prescribed by the Government.
3. The procedure for the maintenance of the website, as well as the list of any other information to be 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 Judicial Department shall collect and maintain judicial statistics under the procedure established by the Government.
2. The requirements for the judicial statistics shall be as follows:
 - (1) objectivity, well-groundedness and impartiality of statistics;
 - (2) credibility, accuracy of statistical data and their comparability in time and space;
 - (3) timeliness, stability and completeness of statistical information;
 - (4) regular publication of summarized statistical data;
 - (5) accessibility and publicity of statistical information.

3. The Government shall establish the form and content of the statistical card for judicial cases according to the type of the judicial case; it shall also establish the list of and the procedure for publication of the statistical data subject to mandatory publication, and the description of the content of the statistical reports. The statistical data published in a mandatory manner shall contain at least the data provided for by parts 7-10 of this Article.

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

5. In the case of modification of statistical classifiers, they shall become effective not earlier than starting from 1 January of the year following the modifications.

6. The Judicial Department shall ensure that the statistical data collected on the basis of the statistical card for judicial cases, except for the information not subject to publication as prescribed by law, are accessible to the public. The Judicial Department shall provide the statistical data to the Supreme Judicial Council and the courts and shall publish them on the official website of the judiciary in a special section designated for the publication of statistical data.

7. In particular, the following data in respect of each court and judge of first instance shall be published according to types of cases:

- (1) number of judges;
- (2) total number of cases transferred from the previous reporting period 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;
- (5) total number of cases with proceedings suspended as of the last day of the reporting period;
- (6) average duration of examination of cases completed during the reporting period — according to the number of sessions;
- (7) average duration of examination of cases completed during the reporting period — according to time (expressed in hours) (including according to the average duration of the preparatory and core stages of the trial and the stage of rendering the judicial act);
- (8) proceedings on judicial guarantees for pre-trial proceedings completed during the reporting period — according to types;
- (9) total number of incomplete cases as of the last day of the reporting period;
- (10) number of judicial acts appealed against during the reporting period — according to types;
- (11) number of judicial acts reversed during the reporting period — according to types.

8. In particular, the following data in respect of each Court of Appeal and judge shall be published:

- (1) data provided for by part 7 of this Article, except for those provided for by points 3 and 8;

- (2) total number of appeals received during the reporting period;
- (3) total number of appeals not accepted for proceedings during the reporting period;
- (4) cases originated in appeals lodged against judicial acts not considered conclusive judicial acts — according to the types of acts and to the courts having rendered the act being appealed.

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

10. The Judicial Department shall also publish — annually, not 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 state duty paid and the state duty pending under judicial acts;
- (3) with regard to the disciplinary liability of judges and termination of their powers: the number of instituted disciplinary proceedings and proceedings for termination of powers — according to entities having instituted the proceedings and to the grounds for instituting the proceedings; number of cases in which the proceedings were dismissed — according to entities having instituted the proceedings; number of cases in which disciplinary liability was entailed and those of termination of powers and data on the outcome of the proceedings instituted against a judge (including on the type of the penalty);
- (4) comparison of the data provided for by parts 7-10 of this Article with those of the previous year.

CHAPTER 3

COURT OF FIRST INSTANCE OF GENERAL JURISDICTION

Article 20. Jurisdiction of courts of first instance of general jurisdiction

1. Courts of first instance of general jurisdiction shall examine all the cases subject to examination under judicial procedure except for cases falling under the competence of specialised courts.

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

1. Judges of courts of first instance of general jurisdiction shall have civil or criminal specialisation.2. In a Court of First Instance of general jurisdiction, criminal proceedings, cases related to the matters — provided for by law — which relate to the execution of a punishment, shall be examined by a judge of criminal specialisation, except for cases provided for by part 3 of this Article. All other cases falling under the competence of a Court of First Instance of general jurisdiction shall be examined by a judge of civil specialisation.

2.1. In a court of first instance of general jurisdiction, proceedings on judicial guarantees for pre-trial proceedings, as well as all motions for operational intelligence measures carried out in the Republic of Armenia shall be examined, with the permission of the courts, by a judge of criminal specialization in a Yerevan court of first instance of general jurisdiction".2.2. Proceedings on judicial guarantees for pre-trial proceedings subject to examination in the Court of First Instance of General Jurisdiction of the relevant marz shall be examined by certain judges of criminal specialisation of the Court of First Instance of General Jurisdiction of the given marz.2.3. In addition to cases provided for in hereinabove, judges specified in paragraph 2.2 hereof, shall examine other cases assigned to a criminal specialization judge by this Code.

3. The Supreme Judicial Council may select judges from among the judges of civil and criminal specialisation who, in addition to cases of the relevant specialisation, shall examine individual types of cases (juvenile cases, cases on return of children illegally moved to and illegally kept in the Republic of Armenia, forfeiture of illegal assets, etc.).

4. The list of cases of specific types, the number of judges examining such cases in each court and the procedure for selection thereof shall be defined by the Supreme Judicial Council.

(Article 21 will enter into force on 1 January 2021, as amended by Article 1 of the Law HO-197-N of 25 March 2020)

(The Law HO-197-N of 25 March 2020 contains a transitional provision relating to Article 21)

Article 22. Judicial territory and seats of courts 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 city of Yerevan, a marz, or marzes, respectively.

2. A Court of First Instance of general jurisdiction shall have a central seat and other seats. The Supreme Judicial Council shall consider the recommendation of the chairperson of the relevant court and make a decision on defining the seats of the court and the area served by each seat.

Article 23. Courts of first instance of general jurisdiction and number of judges

1. In the Republic of Armenia the following courts of first instance of general jurisdiction shall function:

(1) Court of First Instance of General Jurisdiction of the City of Yerevan, composed of at least 62 judges;

(2) Court of First Instance of General Jurisdiction of Kotayk Marz, composed of at least 10 judges;

- (3) Court of First Instance of General Jurisdiction of Ararat and Vayots Dzor Marzes, composed of at least 12 judges;
- (4) Court of First Instance of General Jurisdiction of Armavir Marz, composed of at least 9 judges;
- (5) Court of First Instance of General Jurisdiction of Aragatsotn Marz, composed of at least 6 judges;
- (6) Court of First Instance of General Jurisdiction of Shirak Marz, composed of at least 12 judges;
- (7) Court of First Instance of General Jurisdiction of Lori Marz, composed of at least 12 judges;
- (8) Court of First Instance of General Jurisdiction of Tavush Marz, composed of at least 6 judges;
- (9) Court of First Instance of General Jurisdiction of Gegharkunik Marz, composed of at least 9 judges;
- (10) Court of First Instance of General Jurisdiction of Syunik Marz, composed of at least 9 judges.

CHAPTER 4 SPECIALISED COURTS

Article 24. Jurisdiction of specialised courts

1. The Administrative Court shall have jurisdiction over the cases provided for by the Administrative Procedure Code of the Republic of Armenia.
2. The Court of Bankruptcy shall have jurisdiction over all the cases provided for by the law regulating bankruptcy matters.
3. Subject to the anti-corruption court examination shall be the cases reserved for the jurisdiction of anti-corruption courts under the Criminal Procedure Code of the Republic of Armenia, as well as civil cases initiated through civil proceedings to protect property and non-property interests of the State and lawsuits for confiscation of assets on the basis of the Law on Confiscation of Assets of Illegal Origin (anti-corruption civil cases).

Article 25. Number of judges of specialised courts

1. The Administrative Court shall function with at least 24 judges.
2. The Court of Bankruptcy shall function with at least 12 judges.
3. The Anti-Corruption Court shall have at least 15 judges, of which at least 10 must be judges specializing in corruption cases, and at least 5 must be judges specializing in anti-corruption civil cases.

Article 26. Judicial territory and seats of specialised courts

1. The judicial territory of specialised courts shall be the territory of the Republic of Armenia.
2. The central seats of specialised courts shall be in the city of Yerevan.
3. Specialised courts shall have seats in marzes. The Supreme Judicial Council shall consider the recommendation of the chairperson of the relevant court and make a decision on defining the seats of specialised courts and the area served by each seat.

CHAPTER 5**COURT OF APPEAL****Article 27. Jurisdiction of a Court of Appeal**

1. A Court of Appeal shall, within the scope of its powers prescribed by law, review the appealable judicial acts of the courts of first instance.
2. The procedure for examination of cases in a Court of Appeal, as well as the limits of the appellate review, shall be prescribed by law.

Article 27.1. Examination of cases of specific types at the Court of Appeal

1. The Supreme Judicial Council may, in case of establishing the list of cases of specific types provided for by part 4 of Article 21 of this Code, select judges from among the judges of the Court of Appeal, who, in addition to other cases, shall examine cases of specific types included in the mentioned list. The number of judges examining such cases and the procedure for selection thereof shall be established by the Supreme Judicial Council.

Article 28. Number of judges, judicial territory and seats of courts of appeal

1. The following courts of appeal shall function in the Republic of Armenia:
 - (1) Civil Court of Appeal, composed of at least 22 judges;
 - (2) Criminal Court of Appeal, composed of at least 24 judges;
 - (3) Administrative Court of Appeal, composed of at least 10 judges.
2. The judicial territory of courts of appeal shall be the territory of the Republic of Armenia.
3. The seats of courts of appeal shall be in the city of Yerevan.

Article 28.1. Investigation of Anti-Corruption Cases in the Courts of Appeal

1. Judicial acts to be appealed in the Criminal Court of Appeal shall be reviewed by at least 6 judges of the Criminal Court of Appeal.
2. Judicial acts to be appealed in the Civil Court of Appeal shall be reviewed by at least 6 judges of the Civil Court of Appeal.

3. In addition to the cases provided for in paragraph 1 hereof, judges specified in paragraph 1 hereof, shall review other cases assigned to the Criminal Court of Appeal under this Code.

4. In addition to the cases provided for in paragraph 2 hereof, judges specified in paragraph 2 hereof, shall review other cases assigned to the Criminal Court of Appeal under this Code.

CHAPTER 6

COURT OF CASSATION

Article 29. Jurisdiction of the Court of Cassation

1. The Court of Cassation shall review the judicial acts of courts of appeal and, in cases provided for by law, its own judicial acts.

2. The Court of Cassation, by way of reviewing judicial acts within the scope of its 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.

3. The Court of Cassation shall ensure the uniform application of laws and other regulatory legal acts where there is an issue of legal development or in different cases courts have applied a regulatory legal act in a diverging manner, or have not applied it at all, due to diverging legal perceptions.

4. For the purpose of eliminating the fundamental violations of human rights and freedoms, the Court of Cassation shall review the judicial acts that distort the very essence of justice.

Article 30. Structure of the Court of Cassation and number of judges

1. In the Court of Cassation four chambers shall function, each of which shall act as a Court of Cassation.

2. The following chambers shall function within the Court of Cassation:

- (1) the Criminal Chamber, composed of 6 judges;
- (2) the Civil Chamber, composed of 7 judges;
- (3) the Administrative Chamber composed of 5 judges;
- (4) the Anti-Corruption Chamber composed of 10 judges.

Article 31. Judicial territory and seat of the Court of Cassation

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

2. The seat of the Court of Cassation shall be the city of Yerevan.

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

Article 32. Chairpersons of courts of first instance and of courts of appeal

1. The term of office for the chairperson of a Court of First Instance, as well as of a Court of Appeal, shall be three years.

2. In addition to the powers of a judge, the chairperson of a Court of First Instance, as well as of a Court of Appeal, shall:

(1) ensure the normal operation of the court, as well as supervise the operation of the staff of the court;

(2) grant a leave to judges;

(3) represent the court in relations with other bodies;

(4) refer issues related to ensuring the normal operation of the court to the Supreme Judicial Council, the General Assembly or to the commissions of the General Assembly;

(5) in the case of discovering any prima facie violation of the code of conduct committed by a judge, report it to the Ethics and Disciplinary Commission of the General Assembly (hereinafter referred to as "the Ethics and Disciplinary Commission");

(6) exercise other powers.

3. The chairperson of a court of first instance shall approve, in the manner prescribed by the Supreme Judicial Council, the duty schedule of judges carrying out judicial oversight over motions, appeals submitted within the scope of judicial guarantees for pre-trial proceedings and operational intelligence measures. On the official website of the judiciary, only the seats of judges scheduled for duty shall be published.4. The chairperson of a Court of First Instance, as well as of a Court of Appeal, may appoint another judge as his or her substitute in the cases of being on a leave or a business trip, as well as of temporary incapacity.

5. In the case of failure by the chairperson of a Court of First Instance, as well as of a Court of Appeal, to appoint a substitute for him or her, or in the case of suspension, discontinuation or termination of his or her powers, the chairperson in question shall be substituted by a judge of the same court who has had the longest period of service in the position of a judge in the courts of the same instance. If there is more than one judge with the same period of service, preference shall be given to the eldest judge.

(Article 32 amended by HO-197-N of 25 March 2020)

Article 33. Chairperson of the Court of Cassation

1. The term of office of the Chairperson of the Court of Cassation shall be six years.

2. In addition to the powers of a judge of a chamber of the Court of Cassation, the Chairperson of the Court of Cassation shall:

(1) ensure the normal operation of the Court of Cassation, as well as supervise the

operation of the Staff of the Court of Cassation;

- (2) grant a leave to judges of the Court of Cassation;
- (3) represent the Court of Cassation in relations with other bodies;
- (4) refer issues related to ensuring the normal operation of the Court of Cassation to the Supreme Judicial Council, the General Assembly and the Commissions of the General Assembly;
- (5) in the case of discovering any prima facie violation of the code of conduct by a judge of the Court of Cassation, as well as by the chairperson of a chamber thereof, report it to the Ethics and Disciplinary Commission;
- (6) exercise other powers.

3. In the case of leave or business trip, the Chairperson of the Court of Cassation shall appoint one of the chairpersons of the chambers as his or her substitute.

4. In the case of failure by the Chairperson of the Court of Cassation to appoint a substitute for him or her when on a leave or business trip, or in the case of temporary incapacity, suspension, discontinuation or termination of his or her powers, the Chairperson of the Court of Cassation shall be substituted by the chairperson of a chamber of the Court of Cassation who has had a longer period of service in the position of a judge of the Court of Cassation. In the case of equal periods of service, preference shall be given to the eldest chairperson of a chamber.

(Article 33 amended by HO-197-N of 25 March 2020)

Article 34. Chairpersons of chambers of the Court of Cassation

1. The term of office of the chairperson of a chamber of the Court of Cassation shall be six years.

2. In addition to the powers of a judge of a chamber of the Court of Cassation, the chairperson of a chamber of the Court of Cassation shall:

- (1) organise the operation of the chamber;
- (2) preside over the sessions, and concerning the Anti-Corruption Chamber, sessions of the judiciary panel in which President of the Chamber is involved. (3) in the case of discovering any prima facie violation of the code of conduct by a judge of the chamber of the Court of Cassation, report it to the Ethics and Disciplinary Commission.

3. When the chairperson of a chamber of the Court of Cassation is on a leave or business trip, and in the cases of temporary incapacity, suspension, discontinuation or termination of the powers of the latter, the Chairperson of the Court of Cassation shall appoint one of the judges of the chamber to substitute the chairperson of the chamber of the Court of Cassation.

(Article 34 amended by HO-197-N of 25 March 2020)

Article 35. Discontinuation of powers of chairpersons of courts and chairpersons of chambers of the Court of Cassation

1. The powers of chairpersons of courts and of chairpersons of chambers of the Court of Cassation shall discontinue in the case of expiry of their term of office, abolishment of the court, as well as discontinuation, termination of their powers as judges, in case of being appointed as a member of the Supreme Judicial Council, application of a disciplinary penalty prescribed by point 3.2 of part 1 of Article 149 of this Code against him or her, as well as in the cases provided for by parts 2 and 3 of this Article. Powers of the President of the Chamber of the Court of Cassation shall also be terminated in the event of the abolition of the relevant Chamber

2. In the written application for resignation, the chairperson of a Court of First Instance, or of a Court of Appeal, shall indicate the circumstances serving as a ground for their resignation. The Supreme Judicial Council need not accept the resignation of a chairperson of a Court of First Instance, or of a Court of Appeal.

3. Where the Chairperson of the Court of Cassation, or the chairperson of a chamber of the Cassation Court, applies for resignation, their powers as the Chairperson of the Court of Cassation, or chairperson of a chamber of the Court of Cassation, shall discontinue from the day of reiteration of their resignation at the session of the Supreme Judicial Council or of failure to attend said session.

(Article 35 supplemented by HO-197-N of 25 March 2020)_

CHAPTER 8
ENSURING THE NORMAL OPERATION OF THE COURTS AND SUPREME
JUDICIAL COUNCIL

Article 36. Judicial Department

1. The Supreme Judicial Council shall form its staff — the Judicial Department, which ensures the operation of the Supreme Judicial Council, courts, General Assembly and commissions of the latter.
2. The operation of the Supreme Judicial Council shall be ensured by the central body of the Judicial Department.
3. The operation of courts shall be ensured by separated subdivisions of the Judicial Department.

Article 37. Service in the Judicial Department

1. In the Judicial Department, bailiff service, as well as in cases provided for by law — other types of service, shall be carried out.
2. The bailiff service shall ensure the following:
 - (1) protection of the life, health, dignity, rights and freedoms of the judge, participants of the proceedings, and of other persons, from criminal and any other unlawful encroachment, in the court;
 - (2) execution of court orders subject to immediate execution on the spot;
 - (3) maintenance of public order within the court's premises, protection of the allocated property, as well as of the building and service area;
 - (4) performance of other actions provided for by law.
3. The details on bailiff service shall be prescribed by law.
4. Other state bodies or organisations may be involved in the performance of functions of the bailiff service.

(Article 37 amended by HO-75-N of 21 January 2020)

Article 38. Financing of Courts and Supreme Judicial Council

1. The courts and Supreme Judicial Council shall be financed from the State Budget, in which each court and the Supreme Judicial Council shall have a separate row designated for that court or the Supreme Judicial Council.
2. The financing of the courts and Supreme Judicial Council must be carried out in such a way as to cover the expenditures necessary for the normal operation thereof.

3. The medium-term expenditure programme and the draft budget bid of the courts and Supreme Judicial Council shall be prepared by the Judicial Department.

4. Upon receiving the draft medium-term expenditure programmes or draft budget bids prepared by the staffs of the courts, the central body of the Judicial Department shall draft the medium-term expenditure programme or the budget bid of the courts and Supreme Judicial Council.

5. The head of the Judicial Council shall submit the draft medium-term expenditure programme or the draft budget bid of the courts and Supreme Judicial Council for approval to the Supreme Judicial Council.

6. The budget bid or the medium-term expenditure programme approved by the Supreme Judicial Council shall be submitted to the Government within the time limits prescribed by the decision on launching the budgeting process.

7. The Government shall accept the budget bid and include it in the Draft State Budget, and if there are any objections, it shall be submitted to the National Assembly together with the Draft State Budget. The Government shall present detailed rationale for its objections concerning the budget bid to the National Assembly and the Supreme Judicial Council.

8. If the State Budget is not approved within the prescribed time limits, until its approval the funds shall be spent in the proportions of the previous year's budget.

9. The position of the Supreme Judicial Council on the budget bid or the medium-term expenditure programme shall be presented in the National Assembly by the chairperson of the Supreme Judicial Council or, upon the assignment of the chairperson of the Supreme Judicial Council, the head of the Judicial Department.

10. A reserve fund of the courts and Supreme Judicial Council shall be provided for in a separate budget row to fund the unforeseen expenditures. The size of the reserve fund of the courts and Supreme Judicial Council shall be equal to two per cent of the expenditures planned for the judicial bodies by the law on State Budget of the year in question. Allocations from the reserve fund shall be made by the decision of the Supreme Judicial Council.

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

12. Where the resources of the reserve fund of the courts and Supreme Judicial Council are insufficient to ensure the normal operation of the judicial bodies, the Government shall make up the shortfall at the expense of resources of the reserve fund of the Government.

Article 39. Logistical support to the operation of the courts, Supreme Judicial Council, General Assembly and its commissions

1. The logistical support to the courts, Supreme Judicial Council, General Assembly and its commissions shall be ensured by the Judicial Department.

CHAPTER 9

DISTRIBUTION OF CASES IN COURTS

Article 40. Procedure for distribution and redistribution of cases among judges

1. The distribution, redistribution of cases among judges and the formation of panels of judges shall be carried out under the procedure defined by the Supreme Judicial Council based on the principles of specialisation and random selection, as well as on the rules prescribed in this Chapter. The Supreme Judicial Council may define the specific aspects of distribution, redistribution of motions filed with regard to the matters of judicial oversight over pre-trial criminal proceedings and motions for carrying out operational intelligence measures. No other cases shall be distributed among judges of a Yerevan court of first instance of general jurisdiction examining motions, appeals filed within the scopes of proceedings on judicial guarantees for pre-trial proceedings and motions on carrying out operational intelligence measures.

2. When distributing or redistributing cases containing a secret protected by law, confidentiality shall be ensured.

(Article 40 will enter into force on 1 January 2021, as amended by Article 4 of the Law HO-197-N of 25 March 2020)

(The Law HO-197-N of 25 March 2020 contains a transitional provision relating to Article 40)

Article 41. Computer program for distribution of cases in courts

1. Distribution, redistribution of cases among judges and formation of panels of judges shall be carried out through a special computer program (hereinafter referred to as "the Computer Program") the procedure for the operation whereof shall be defined by the Supreme Judicial Council.

2. The Supreme Judicial Council shall ensure the development, improvement, confidentiality and security features, launching and maintenance of the Computer Program.

3. Illegal interference with the Computer Program shall entail criminal liability.

4. Where the distribution of cases through the Computer Program is impossible due to *force majeure*, the chairperson of a court shall equally distribute the cases among the judges in alphabetical order of the surnames of the judges, taking into account the specific aspects prescribed by parts 4 and 5 of Article 42 of this Code.

5. In the case provided for by part 4 of this Article, the chairperson of a court shall immediately inform the Supreme Judicial Council about that in writing. After receiving the notification, the Supreme Judicial Council shall consider the reasons and give the Judicial Department binding instructions for eliminating them.

Article 42. Distribution of cases in a Court of First Instance

1. A case received by the court shall immediately be entered into the Computer Program. The entered cases shall be equally distributed among the judges of the court in question without taking into consideration the order in which they have been entered. The equal distribution benchmarks shall be defined by the Supreme Judicial Council under the procedure provided for by part 1 of Article 40 of this Code.

2. Where a judge is in charge of a case of particular complexity, the judge may apply to the Supreme Judicial Council with a suggestion to temporarily remove his or her name and surname from the distribution list or define a different percentage of cases to be distributed to him or her. Where it finds the application of the judge to be reasonable, the Supreme Judicial Council shall make a decision on temporarily removing the name and surname of the judge from the list of distribution of cases or on prescribing a different percentage of cases to be distributed to the judge and define a certain time limit for it which may not exceed six months. Based on the application of the judge, the Supreme Judicial Council may make a decision on extending the time limit of six months where the examination of the case of particular complexity has not ended.

3. The name and surname of a judge shall be removed from the list of distribution of cases:

(1) in the case of a leave — for the period of the leave and the period of the preceding ten days;

(2) in the case of secondment to another court — for the period of secondment and the period of the preceding ten days. The name of the seconded judge shall be removed from the list of distribution of cases of the court to which the judge was seconded one month before the expiry of the period of secondment;

(3) in the case of temporary incapacity, participation in training courses, secondment abroad or suspension of powers — for the relevant period;

(4) in the case of expiry of the term of office — three months before the expiry of the term of office;

(5) in other cases provided for by this Code.

4. Where a Court of First Instance has a seat where at least two judges of the same specialisation operate, the distribution of cases shall be carried out under the general procedure taking into account the area served by the seat.

5. Where there is only one judge of a given specialisation at the seat of a Court of First Instance, the procedure for distribution of cases provided for by this Article shall not apply to that seat, and the cases shall be assigned to that judge.

6. Where a case filed with a court is, according to the law, subject to examination by a panel of judges, the case in question shall be assigned to the presiding judge of the panel.

7. Parts 4 and 5 of this Article shall not apply to the procedure for distribution of cases at the Court of First Instance of General Jurisdiction of the City of Yerevan.

8. When distributing the criminal proceedings at the Court of First Instance of General Jurisdiction of the City of Yerevan, the distance between the seat of the Court and the relevant subdivision of the Prosecutor's Office having forwarded the materials of the proceedings may be taken into account where this does not violate the requirements of part 1 of this Article.

Article 43. Distribution of cases in a Court of Appeal

1. Cases examined by a panel of judges and by a single judge shall be entered into the Computer Program separately and shall be distributed separately.

2. The formed panels of judges shall be changed as of 1 January of each year.

2.1. Cases of review of acts on corruption crimes in the Criminal Court of Appeal shall be distributed only among judges reviewing appeals of judicial acts on corruption cases in the Criminal Court of Appeal, and cases of review of acts on anti-corruption civil cases shall be distributed only among judges reviewing appeals of judicial acts on anti-corruption civil cases in the Civil Court of Appeal.

3. Proceedings on review of acts rendered within the scope of proceedings on judicial guarantees for pre-trial proceedings in the Criminal Court of Appeal, as well as acts rendered as a result of examination of motions on carrying out operative intelligence measures shall be distributed only among certain judges of the Criminal Court of Appeal carrying out review of proceedings on judicial guarantees for pre-trial proceedings and examination of motions on carrying out operative intelligence measures.

Article 44. Distribution of cases in the Court of Cassation

1. A case received by the Court of Cassation shall be immediately entered into the Computer Program and shall be distributed among the judges of the relevant chamber as prescribed by this Code and the Supreme Judicial Council.

1.1. Cases concerning appeals against judicial acts on corruption crimes shall be distributed in the Anti-Corruption Chamber of the Court of Cassation only among judges of the corruption crimes panel, whereas cases concerning appeals against judicial acts on anti-corruption civil cases shall be distributed in the Anti-Corruption Chamber of the Court of Cassation only among judges of the anti-corruption civil cases panel.

2. For each case the reporting judge shall be determined in the process of distribution.

3. The case shall be redistributed where the reporting judge has voted against accepting the cassation appeal for proceedings but it has been accepted for proceedings. In that case, one of the judges having voted for accepting the cassation appeal for proceedings shall be determined as the rapporteur in the process of redistribution of the case.

Article 45. Specific Aspects of Distribution of Cases to Chairpersons of Courts, Chambers of the Court of Cassation, Judge Members of the Supreme Judicial Council, Members of the Commissions of the General Assembly, Judges Examining Motions And Appeals Within The Scope Of Proceedings On Judicial Guarantees and Judges of the Criminal Court of Appeal¹. The following reductions in the equal distribution benchmarks shall be prescribed:

(1) 10 per cent for members of the Training Commissions of the General Assembly (hereinafter referred to as "the Training Commission");

(2) 25 per cent for members of the Ethics and Disciplinary Commission and those of the Commissions for Performance Evaluation of Judges;

(3) 25 per cent for chairpersons of courts of first instance of general jurisdiction and courts of appeal;

(4) 30 per cent for chairpersons of specialised courts;

(5) 35 per cent for the Chairperson of the Court of General Jurisdiction of the City of Yerevan;

- (5.1) 50 per cent for the chairpersons of chambers of the Court of Cassation;
- (5.2) 60 per cent for the Chairperson of the Court of Cassation;
- (6) 95 per cent for judge members of the Supreme Judicial Council.

2. The name and surname of a judge selected as the Chairperson of the Supreme Judicial Council shall be removed from the list of distribution of cases for the term of office of the Chairperson of the Supreme Judicial Council.

2.1. The Supreme Judicial Council may prescribe a percentage of reduction in equal distribution benchmarks for judges specified Article 43.2 (1) of this Code.

3. The Supreme Judicial Council may prescribe a percentage of reduction in equal distribution benchmarks for judges specified in paragraph 21.2 (2) and paragraph 43.3 of this Code.

(Article 45 amended, edited and supplemented by HO-197-N of 25 March 2020)

(Part 3 of Article 45 will enter into force on 1 January 2021, as amended by point 4 of Article 5 of the Law HO-197-N of 25 March 2020)

(The Law HO-197-N of 25 March 2020 contains a transitional provision relating to part 3 of Article 45)

Article 46. Redistribution of cases

1. If a judge has been seconded, or his or her secondment period has expired, or he or she has been transferred to another court, or judges have exchanged their positions, or a judge has recused himself or herself from the case in question, or has participated in the examination of the case in question in the past, or has rejected the institution of proceedings the decision on which has been reversed in the manner prescribed, or his or her powers have been suspended, discontinued or terminated, then the cases assigned to that judge shall be redistributed among other judges of relevant specialisation of the court in question.

2. The cases and procedure for redistribution of cases during the periods of temporary incapacity and leave of judges and due to increase in the number of judges in the court shall be prescribed by the decision of the Supreme Judicial Council.

CHAPTER 10

JUDICIAL SANCTIONS

Article 47. Purpose of and grounds for imposing a judicial sanction

1. A judicial sanction shall be imposed for the purpose of keeping the reputation of the judiciary high, as well as ensuring the normal operation of the court session.
2. The court may impose a judicial sanction where a person:
 - (1) abuses his or her procedural rights or maliciously evades performing his or her procedural responsibilities;
 - (2) fails to obey the instructions of the court or otherwise violates the order of the court session;
 - (3) shows disrespectful attitude towards the court in the courtroom.

Article 48. Types of judicial sanctions

1. The types of judicial sanctions shall be:
 - (1) reprimand;
 - (2) removal from the courtroom.
2. Other judicial sanctions may be provided for by law.

Article 49. Conditions for imposing a judicial sanction

1. A judge shall be obliged to prevent and minimise, through his or her conduct, the necessity and cases of imposing a judicial sanction.
2. A judge shall, upon necessity, warn in a perceptible manner of the power of the court to impose a judicial sanction, as well as clarify the grounds for and consequences of imposing a judicial sanction.
3. When imposing a judicial sanction on a person present at the courtroom, the court shall, as a rule, ensure his or her right to be heard.
4. The judicial sanction shall be proportionate to the nature and consequence of the conduct of a person.
5. Imposition of a judicial sanction shall not be a hindrance for subjecting a person subjected to sanction to other liability provided for by law for the same act.

Article 50. Specific aspects of imposing a judicial sanction

1. Reprimand and removal from the courtroom shall be imposed upon a protocol

decision of the court rendered at the same court session, which enters into force upon its announcement.

2. Removal from the courtroom shall not be imposed on the prosecutor participating in the proceedings, an advocate participating as a representative or defence counsel, as well as on a witness giving testimony at the moment and other persons provided for by law.

3. In case of failure to immediately and voluntarily comply with the decision on removal from the courtroom, it shall be enforced through court bailiffs.

4. After imposing a judicial sanction on the prosecutor participating in the proceedings and an advocate participating as a representative or defence counsel, the court shall forward the information thereon to the Prosecutor General and the Chairperson of the Chamber of Advocates respectively.

5. Details related to imposing of judicial sanction shall be prescribed by law.

SECTION 2

STATUS OF A JUDGE

CHAPTER 11

GUARANTEES FOR THE ACTIVITIES OF A JUDGE

Article 51. Immunity of a judge

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 or exercising — as a court — other powers provided for by law, as well as rights arising from the status of a judge, 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.

4. In addition to the right prescribed by part 3 of Article 27 of the Constitution, upon deprivation of liberty, a judge shall be entitled to immediately inform the Chairperson or another member of the Supreme Judicial Council thereon through a telephone call or other means of communication.

5. In cases provided for by part 3 of this Article, depriving a judge of liberty may not last more than seventy-two hours. The Chairperson of the Supreme Judicial Council and the Prosecutor General shall be immediately informed about the deprivation of liberty of a judge. The decision on arresting a judge shall be immediately forwarded to the Supreme Judicial Council and

the Prosecutor General. The bodies and officials having deprived a judge of liberty must ensure the unimpeded access of the Chairperson and the other members of the Supreme Judicial Council to the place where the judge deprived of liberty is held and must ensure that they can visit the judge, where the body of criminal prosecution has not rendered a decision restricting visits with regard to the given member of the Supreme Judicial Council.

6. The institution of the criminal prosecution of a judge and the prosecutorial control of the pre-trial criminal proceedings of the given case shall be conducted by the Prosecutor General or by his or her assignment—by the deputy thereof.

7. Within the scope of criminal proceedings, actions with regard to the judge may be carried out by ensuring maximum confidentiality of the pre-trial criminal proceedings, respect for the reputation and independence of a judge, excluding any direct or indirect intervention into the activities of a judge.

8. During his or her term of office and after the termination or discontinuation of his or her powers, a judge may not be interrogated as a witness with regard to proceedings examined by him or her, except for cases prescribed by law.

(Article 51 supplemented by HO-197-N of 25 March 2020)

Article 52. Informing the Supreme Judicial Council about carrying out probative operations in the court building

1. Before entering into the court building for the purpose of carrying out investigative operations within the scope of a criminal proceedings, the prosecutor exercising oversight over the lawfulness of pre-trial criminal proceedings shall immediately inform the Supreme Judicial Council.

2. In case of entering the court building without informing the Supreme Judicial Council, the Supreme Judicial Council shall apply to the Prosecutor General or the head of an investigative body with a motion to subject the relevant persons to liability.

3. In case of failure to receive a response from the Prosecutor General or the head of an investigative body within a reasonable time period, the Supreme Judicial Council shall make an official statement.

Article 53. Informing the Supreme Judicial Council about carrying out probative operations with participation of a judge not under criminal prosecution

1. In case of necessity to carry out investigative operations with the participation of a judge not under criminal prosecution, the prosecutor exercising oversight over the lawfulness of pre-trial criminal proceedings shall inform the Supreme Judicial Council, as well as the relevant judge — in case of carrying out the investigative operation without authorisation of the court, at least one day before starting the investigative operation.

2. An investigative operation with the participation of a judge not being under criminal prosecution shall be carried out at the time and place priorly agreed with the judge, except for the

investigative operation carried out with the authorisation of the court. While carrying out investigative operation, the confidentiality of the investigative operation, respect for the reputation and independence of the judge shall be ensured to a maximum extent, by excluding any direct or indirect intervention with the activities of a judge.

3. In case of carrying out an probative operation in violation of the requirements laid down in this Article, the Supreme Judicial Council shall apply to the Prosecutor General or the head of an investigative body with a motion to subject the relevant persons to liability.

4. In case of failure to receive a response from the Prosecutor General or the head of an investigative body within a reasonable time period, the Supreme Judicial Council shall make an official statement.

(Article 53 amended and edited by HO-197-N of 25 March 2020)

Article 54. Exemption of the judge from mobilisations and training musters

1. During the term of exercise of his or her powers, a judge shall be released from mobilisation and training musters.

Article 55. Maintenance of immunity guarantees of the judge at the time of martial law or state of emergency

1. Declaration of martial law or state of emergency shall not eliminate the guarantees laid down in Articles 51-54 of this Code.

Article 56. Irreplaceability of a judge

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

2. Where the number of judges of relevant specialisation is reduced or the court is dissolved, relevant judges shall be deemed to be reserve judges, whereas their status, including the right to receive salary and increments and the right to be or remain included in the promotion list of judge candidates, shall be maintained until reaching the age limit for judges to serve in office as prescribed by the Constitution, unless otherwise provided for by this Code.

3. In case of reduction in the number of judges of relevant specialisation in a court, preference in continuing their service in office in that court shall be given to elder judges of relevant specialisation. Where elder judges are of the same age, preference shall be given to the person with a longer experience as a judge.

4. In case of termination or discontinuation of the powers of an acting judge or increase in the number of judges of the given court, the reserve judge of the relevant specialisation in the court shall continue to serve in office as a judge and cease to be deemed as a reserve judge. Where there are several reserve judges, preference shall be given to the eldest person.

5. Where the normal operation of a court may not be ensured due to the insufficient number of judges caused by objective reasons, another judge of the relevant specialisation of the same instance may, upon the decision of the Supreme Judicial Council, be seconded, upon his or her consent, 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 again within one year after the end of the previous secondment.

6. Reserve judges of relevant specialisation shall be seconded in the order of priority, without restricting the maximum term of secondment. In case of refusal to be seconded, the reserve status of the relevant judge shall discontinue.

Article 57. Salary and social guarantees of a judge

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 law.

2. A judge's salary and increments added thereon, the amount of pension may not be reduced, except for cases when an equal reduction is made for all high-ranking officials.

3. Judge's pension, as well as , social security of the judge's family members, in case of judge's death (death) due to injury or mutilation received in the performance of official duties, shall be provided in accordance with the Law on Provision of Activities, Services and Social Guarantees of Officials.4. A judge shall be entitled to health insurance and casualty insurance at state expenses, under the conditions and in the amount prescribed by the Government.

5. In cases prescribed by the Supreme Judicial Council, a judge appointed to a position outside the place of his or her permanent residence shall, based on his or her application, be provided with compensation equal to the rent of an apartment in the given place. The procedure for providing compensation, maximum amount and periods thereof shall be prescribed by the Government.

6. A judge shall also enjoy the social guarantees prescribed for the public servant.

7. The guarantees provided for by part 3 of this Article shall also extend to a person having held the office of a judge in an international court to which the Republic of Armenia is a participant.

Article 58. Leave of a judge

1. A judge 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.

3. A regular annual leave may be granted to a judge in parts, but in not more than three parts.

4. The chairperson of the court shall approve the schedule of the regular annual leave of judges and publish it on the official website of the judiciary by 31 January of the given year.

5. The chairperson of the given court shall inform the Ethics and Disciplinary

Commission about granting leave during a period not corresponding to the approved schedule and the reasons thereof.

6. For the reason of personal or family circumstances, the chairperson of a court may grant a judge an unpaid leave for a duration of up to 20 days per year in total, and for a longer period upon the consent of the Supreme Judicial Council.

7. For the purpose of defending an academic dissertation, a judge shall be entitled to an unpaid leave for up to 30 working days.

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

9. The procedure for granting a leave to a judge shall be prescribed by the decision of the Supreme Judicial Council.

(Article 58 amended by HO-197-N of 25 March 2020)

Article 59. Right of a judge to participate in educational programmes

1. A judge shall have the right to participate in educational programmes, conferences and other professional gatherings of lawyers.

2. The consent to be absent for not more than up to five days per year for participating in educational programmes, conferences and other professional gatherings of lawyers during working hours shall be given by the chairperson of the court. To receive consent for a longer period, a judge shall, upon the consent of the chairperson of the court, apply to the Training Commission.

3. The consent to participate in other educational programmes, conferences and other professional gatherings of lawyers shall be granted to the judge so as not to impede the normal operation of the court.

4. Where a judge has received the consent of the chairperson of the court or that of the Training Commission, 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.

5. Disputes related to failure to grant consent shall be settled by the Supreme Judicial Council.

Article 60. Personal file of a judge

1. The Judicial Department shall draw up 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 or the announcement of the Chairperson of the Supreme Judicial Council that the judge has been appointed by virtue of law and the text of the oath signed by 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 court;

(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 and proceedings for termination of powers against the judge, dismissing the proceedings, rejecting the motion to impose disciplinary action or proceedings for termination of powers against the judge, copies of the documents on subjecting the judge to liability, termination or discontinuation of powers of the judge;

(6) decisions on the results of evaluation of the activities of the judge and the considerations of the judge on their drafts.

3. The Supreme Judicial Council may prescribe other information to be included in the personal file, which is necessary for the effective exercise of the powers of the Supreme Judicial Council.

4. Information mentioned in points 3-6 of part 2 and in part 3 of this Article, as well as on the permanent place of residence of the judge may not be publicly disclosed, except for cases prescribed by law. Besides the judge, the President of the Republic of Armenia, the body entitled to institute proceedings against the judge and the Supreme Judicial Council shall also be entitled to have access — during the period of exercise of their powers — to the personal file of the judge.

Article 61. 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. A judge of the Chamber of the Court of Cassation and the Chairperson of the Court of First Instance of General Jurisdiction of the City of Yerevan shall have assistants.

3. Position of the assistant is a state discretionary position, the relations pertaining to appointment to position and removal from position whereof shall be regulated by the Law “On public service”. The immediate supervisor of the assistant to a judge shall be the relevant judge.

4. Based on the workload of a judge, cases of and procedure for engagement of an additional assistant and secretary shall be prescribed by the Supreme Judicial Council.

(Article 61 edited by HO-75-N of 21 January 2020)

Article 62. 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 and in case of having been appointed by virtue of law — by the Chairperson of the Supreme Judicial Council.

2. The identification card of the Chairperson of the Court of Cassation shall be issued by the Chairperson of the National Assembly.

Article 63. Security and personal protection means of a judge

1. Judges shall have the right to keep and carry listed service weapon and special protection means. The procedure for providing a listed service weapon and special protection means to judges shall be prescribed by the Government.

2. A judge and his or her family members shall be under the special protection of the State. In case of an unlawful action against the immunity of a judge, his or her family members, the residential and working premises occupied by him or her and to other property, or a threat thereof, the judge shall report to the competent state bodies and the Supreme Judicial Council. The competent state bodies shall be obliged to immediately take relevant measures aimed at ensuring the security of the judge, his or her family members, the residential and working premises occupied by him or her and other property, about which the Supreme Judicial Council shall be informed.

Article 64. Expenses of secondment and off-site sessions of a judge

1. In case of being seconded outside the place of his or her permanent residence or when holding an off-site session in cases provided for by law, a judge shall be reimbursed for the expenses through the procedure and in the amount prescribed by the Government.

Article 65. Right of the judge to immediate reception

1. A judge shall have the right to immediate reception by the Chairperson and other members of the Supreme Judicial Council.

CHAPTER 12**RULES OF JUDICIAL CONDUCT****Article 66. Rules of judicial conduct and the purpose thereof**

1. The rules of judicial conduct shall be prescribed by this Code and shall be binding for all judges.

2. The rules of judicial conduct shall be binding for the members of the Supreme Judicial Council elected by the National Assembly, contenders for judge candidates, judge candidates as well, including persons included in promotion lists of candidates, as well as the staff of the court insofar as they are, in their essence, applicable to them.

3. The purpose of the rules of judicial conduct shall be to contribute, through the observance by the judge and persons mentioned in part 2 of this Article of the rules of conduct, to ensuring of the independence and impartiality of the court, as well as to building respect for and confidence in the court.

4. *(Part repealed by HO-197-N of 25 March 2020)*

5. *(Part repealed by HO-197-N of 25 March 2020)*

(Article 66 amended by HO-197-N of 25 March 2020)

Article 67. Duty to follow the rules of conduct

1. A judge shall be obliged to follow the rules of conduct prescribed by this Code. Failure to follow the rules of conduct in cases and as prescribed by this Code may result in a disciplinary sanction on a judge.

2. A judge must contribute to instilling high standards of conduct by both personally following the rules of conduct and pursuing that other judges and the staff of the court follow them.

3. *(Part repealed by HO-75-N of 21 January 2020)*

(Article 67 amended by HO-75-N of 21 January 2020)

Article 68. Rules of ethics of a judge

1. The General Assembly shall prescribe the rules of ethics of a judge, which shall be included in training programmes for judges.

2. The rules of ethics of a judge shall be personal and conduct restrictions on a judge, which the judge shall adopt knowingly and voluntarily, with a view to keeping the reputation of the judge and the judiciary high, ensuring public perception of him or her as a fair, well-mannered and well-balanced person.

3. Violation of the rules of ethics may not serve as a ground for imposing disciplinary action against a judge.

Article 69. General rules of judicial conduct

1. When engaging in any activity and in all circumstances, a judge shall be obliged:

(1) to refrain from practising any conduct discrediting the judiciary, as well as decreasing the public confidence in the independence and impartiality of the judiciary;

(2) not to use or not to authorise other persons to use his or her high reputation of the judge for his or her benefit or for the benefit of another person;

(3) to demonstrate political restraint and neutrality;

(4) to refrain from interfering in the administration of justice by another judge;

(5) to refrain from publicly casting doubt on professional and personal qualities of the judge;

(6) to refrain from publicly casting doubt on actions of the court and judicial acts, except for cases provided for by law or of a professional activity carried out within the scope of the scientific freedom;

(7) to refrain from expressing an opinion on any ongoing case examined or anticipated in any court, except for cases where the judge acts as a party to or as a legal representative of a

party to proceedings;

(8) to refrain from making an announcement or practising any conduct which threatens or casts doubt on the independence and impartiality of the judge or court;

(9) to immediately inform the Supreme Judicial Council about interference in his or her activities in connection with administration of justice or exercising — as a court — other powers provided for by law, as well as rights arising from the status of a judge;

(10) not to act as a representative or provide counselling, including 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;

(11) to observe the restrictions on accepting gifts, prescribed by this Code;

(12) not to initiate, authorise or take into account communications with the other party to proceedings or an advocate thereof without the participation of the adverse party to the proceedings or the advocate thereof (hereinafter referred to as “ex parte communications”), and to communicate at first chance 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, giving an opportunity to respond. Exceptions from this rule shall be permissible only in the following cases:

a. when circumstances make ex parte communications necessary for logistical purposes, such as reaching agreement on the date and time of the court session, for instance, or in other cases of organising the procedure, and 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 communicates at first chance the content of such communications to the other party, giving the latter an opportunity to respond;

b. where such unilateral communication by the judge is directly provided for by law;

(13) not to initiate and authorise consultation with a judge of the superior court with which an appeal may be lodged in the case concerned, as well as with a judge who has recused himself or herself in the case concerned;

(14) where the judge applies to a specialist not interested in the outcome of the case, with regard to issues on the applicable law (except for another judge, as well as the employees of the staff of the court, the function whereof is to assist the judge in administering justice), the judge shall be obliged to inform the parties at first chance on the identity of that specialist and the opinion received on the issue presented, and give them an opportunity to present their position with regard thereto;

(15) to submit a declaration on declaration on property, income, interests and expenses in accordance with the Law “On public service” and in observance of the requirements provided for by the mentioned law;

(16) to submit, in the cases and under the procedure prescribed by the Law “On the Commission for Prevention of Corruption, to the Commission for Prevention of Corruption appropriate materials or clarifications establishing that the changes in his or her property (increase in property and (or) decrease in liabilities or expenses) are reasonably justified by lawful income, or that he or she does not possess non-declared property or property not completely declared, or the source of income is lawful and reliable.

(Article 69 supplemented by HO-197-N of 25 March 2020)

Article 70. Rules of judicial conduct when acting ex officio

1. Duties of a judge related to administration of justice or exercising — as a court — other powers provided for by law shall prevail over other activities carried out by him or her.

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

(1) to examine and resolve matters reserved to his or her authority by virtue of law, except for cases where there are grounds for self-recusal;

(2) to render judicial acts on his or her own;

(3) ***(Point repealed by HO-75-N of 21 January 2020)***

(4) to observe the internal working disciplinary rules;

(5) to treat the participants of the proceedings, judges, the staff of the court, and all persons with whom he or she communicates *ex officio* with respect and politeness;

(6) to examine and resolve — without prejudice to the interests of justice, within reasonable time limits and with minimum judicial expenses — matters reserved to his or her authority by virtue of law;

(7) to avoid any conflict of interest, exclude that family, social or other relationships influence the exercise of his or her official powers in any way;

(8) not to use, disclose or otherwise make accessible — for purposes other than the administration of justice and exercising — as a court — other powers provided for by law — non-public information that he or she has become aware of in the course of exercising his or her official duties, unless otherwise provided for by law;

(9) to participate in mandatory training programmes;

(10) to ensure consistent improvement of his or her proper level of professionalism and skills;

(11) ***(Point repealed by HO-75-N of 21 January 2020)***

(12) to conduct court sessions wearing a gown;

(13) not to interfere with the operation of the system of recording court sessions;

(14) to refrain from taking actions that may entail, to a reasonable extent, grounds for self-recusal;

(15) to participate in the General Assembly and in case of being a member of the Commission of the General Assembly — in the sessions of that Commission;

(16) to inform the Chamber of Advocates or the Prosecutor General about such violation of the rules of conduct by an advocate or a prosecutor that casts doubt on the honesty of that advocate or prosecutor;

(17) to hold communications with the mass media in compliance with the rules

prescribed by the Supreme Judicial Council.

3. In addition to the rules of conduct provided for by part 2 of this Article, the chairperson of a court and the chairperson of a chamber of the Court of Cassation shall be obliged to fully and properly perform the powers prescribed by this Code for chairperson of a court and for chairperson of a chamber of the Court of Cassation, respectively.

(Article 70 amended by HO-75-N of 21 January 2020, edited and supplemented by HO-197-N of 25 March 2020)

Article 71. 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 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, has been a witness to circumstances being disputed during the examination of a case;

(3) a judge has participated in the examination of the case concerned in another court;

(4) a close relative of a judge has acted, is acting or will reasonably act as a participant in the case;

(5) a judge is aware or must be reasonably aware that he or she personally or his or her close relative pursues economic interests in connection with the merits of the dispute or with any of the parties;

(6) 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. Where the judge firmly believes that he or she will be impartial in the case concerned, 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 72. Payments 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 activities carried out in compliance with part 1 of this Article, a judge may receive reimbursement for expenses, where such reimbursement cannot be reasonably perceived as aimed at the influence over the judge in connection with the performance of his or her official duties.

Article 73. Restrictions on judges' accepting gifts

1. A judge must not accept a gift or agree to accept a gift in the future. A judge must endeavour that his or her family members and other close relatives residing with him or her refrain from such actions.

2. Within the meaning of this Code, 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, and shall also include waived claims, surrender of claims without compensation or at an apparently disproportionate low price, property sold at an apparently disproportionate low price, services rendered or work carried out at an apparently disproportionate low price, as well as preferential borrowings, gratuitous use of another's property, and other actions, as a result of which a person derives benefit or advantage.

3. The restrictions specified in this part shall not apply to the following:

(1) gifts received by a close relative residing with the judge, in relation to the entrepreneurial, professional or other activity thereof, including the gift which may be used by the judge as well, provided that such gift may not be reasonably perceived as given in relation to the performance of the official duties of the judge;

(2) 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;

(3) loans received from financial institutions on ordinary or general conditions.

4. The following shall be considered as gifts permissible for a judge:

(1) gifts usually given in public or ceremonial events;

(2) gifts given as part of everyday hospitalities, where they, by their nature, correspond to gifts usually given in everyday hospitalities;

(3) gifts received from a close relative;

(4) gifts received from a kinsperson, where the nature and amount of the gift reasonably corresponds to the nature of the relationships between them.

5. Where the value of gifts, considered as permissible under this Article (except for gifts received from a close relative), received from the same person exceeds sixty thousand

Armenian drams or exceeds two hundred and forty thousand Armenian drams during a calendar year, the judge shall be obliged to report thereon to the Ethics and Disciplinary Commission within a period of ten days. Where the Ethics and Disciplinary Commission assesses the gift (gifts) received as not permissible under this Article, it shall inform the judge thereon within a period of one week. The rules of part 7 of this Article shall be applicable following the receipt of a notification from the Ethics and Disciplinary Commission.

6. Where a judge becomes aware that his or her close relative was given a gift which may be reasonably perceived as given in relation to the official duties of the judge, he or she shall be obliged to report thereon to the Ethics and Disciplinary Commission within a period of one week following the receipt of such information.

7. Where a judge has received a gift which is not considered as permissible under this Article, he or she shall be obliged to return it or pay an equivalent compensation within a period of one week following the receipt of the gift. Where the gift cannot be returned or compensated equivalently within the time limit prescribed, he or she shall be obliged to transfer it to the Republic of Armenia within a period of one week, as prescribed by the Government.

(Article 73 amended by HO-197-N of 25 March 2020)

CHAPTER 13

GENERAL ASSEMBLY OF JUDGES

Article 74. Status of and procedure of activities of the General Assembly of Judges

1. The General Assembly shall be a self-government body of judges.
2. The General Assembly shall be composed of all the judges of the Republic of Armenia, who are ex officio members of the General Assembly.
3. Regular meetings of the General Assembly shall be convened once a year by the Chairperson of the Court of Cassation. An extraordinary meeting of the General Assembly may be convened by the Chairperson of the Court of Cassation, at his or her initiative, upon the request of at least one fifth of judges or the Commission of the General Assembly. The initiator shall propose the issue being included in the agenda.
4. The General Assembly shall be conducted 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.
5. The Assembly shall:
 - (1) discuss and submit proposals aimed at improving the operation of courts to the Supreme Judicial Council and other competent state bodies;
 - (2) establish Ethics and Disciplinary Commission, Training Commission as well as Commission for Performance Evaluation of Judges, and for effective performance of the functions thereof —working groups;
 - (3) approve the procedure for operation thereof, of the commissions and also the working groups, where necessary;
 - (4) elect and propose the candidacies of judge members of the Constitutional Court;

- (5) elect the judge members of the Supreme Judicial Council;
- (6) approve the description of and procedure for providing the gown of judges;
- (7) prescribe the rules of ethics of a judge;
- (8) discuss the report of the Judicial Department on annual activities of the staffs of courts;
- (9) perform other functions.

6. The General Assembly and the Commissions operate in accordance with the Rules of Procedure approved by the General Assembly.

7. The General Assembly shall have a quorum where it is attended by more than half of all the judges.

8. The decisions shall be adopted in the General Assembly by a simple majority vote of the judges participating in the vote, unless otherwise prescribed by this Law.

9. The decisions shall be adopted by the General Assembly through open ballot, unless otherwise prescribed by this Code or a decision of the General Assembly.

10. Elections shall be held through secret ballot.

11. The procedure for organising the vote, summarising the results thereof and drawing up ballot papers and the form of the ballot paper shall be prescribed by the Rules of Procedure of the General Assembly.

12. For the purpose of organising the vote, counting the votes and summarising the voting results, the General Assembly shall set up a Counting Commission comprised of five members elected by the General Assembly. The procedure for establishment and operation of the Counting Commission shall be established by the Rules of Procedure of the General Assembly.

13. Decisions of the General Assembly shall enter into force upon their announcement in the General Assembly, unless otherwise prescribed by the decision of the General Assembly.

(Article 74 amended by HO-197-N of 25 March 2020)

Article 75. Procedure for election of a judge candidate for the Constitutional Court by the General Assembly

1. A judge may be nominated as a candidate for a judge of the Constitutional Court through self-nomination or through being nominated, upon his or her consent, by another judge, where he or she complies with the requirements prescribed by the Constitution and the Constitutional Law of the Republic of Armenia "On the Constitutional Court" for the candidacy for a judge of the Constitutional Court.

2. For each vacant position a separate ballot paper shall be drawn up for voting, in which all the candidates nominated for the relevant vacant position of a judge of the Constitutional Court shall be included.3. When voting for each vacant position,, the voter shall have one vote.

Where a voter has given more votes, the ballot paper shall be deemed invalid.

4. The candidate having received at least more than half of the "for" votes of the voters shall be deemed elected.

5. Where by the voting results none of the candidates has received more than half of the votes, an additional election shall be held, in which the two candidates having received the greatest number of votes shall participate. Where, due to equal number of votes, it is impossible to determine two candidates having received the greatest number of votes, preference shall be given to the candidate with a longer judicial experience, and in case of an equal experience — to the eldest candidate.

6. During the additional vote, each participant of the General Assembly shall have one vote. During the additional vote, the candidate having received more than half of the number of votes shall be deemed elected. Where no one has received at least half of the "for" votes of the voters, a new election shall be held.

7. The General Assembly shall present the elected candidate for a judge of the Constitutional Court to the National Assembly within one day, as prescribed by the Constitutional Law of the Republic of Armenia "Rules of Procedure of the National Assembly

8. Elections of candidates for two and more vacant positions of a judge of the Constitutional Court may be conducted simultaneously, in the manner provided for by this Article..

Article 76. Procedure for election of judge members of the Supreme Judicial Council

1. Judge members of the Supreme Judicial Council shall be elected by the General Assembly from among judges of all court instances, with the following proportionality:

- (1) one member from the Court of Cassation;
- (2) one member from the courts of appeal;
- (3) three members from the courts of first instance; moreover, at least one member from the courts of first instance of general jurisdiction of the marzes.

2. Judges of all specialisations must be represented in the Supreme Judicial Council.

3. For the purpose of gender representation of judge members within the Supreme Judicial Council, the number of representatives of the same gender must be as restricted as possible to maximum three members, except for cases provided for by parts 12 and 13 of this Article.

4. For the purpose of electing judge members of the Supreme Judicial Council, the Head of the Judicial Department shall, at least one month before the session of the General Assembly, include in the ballot paper the names of all the judges complying with the requirements prescribed by the Constitution and this Code for a judge member of the Supreme Judicial Council, where their election will not violate, by itself, the requirements prescribed by parts 1-3 of this Article. Where there are no such candidates in the Court of First Instance, Court of Appeal or the Court of Cassation respectively, the names of all the judges complying with the requirements for a judge member of the Supreme Judicial Council prescribed by the Constitution and this Code shall be included in the ballot paper, where their election will not violate, by itself, the requirements prescribed by parts 1-2 of this Article.

5. The Head of the Judicial Department shall immediately notify the relevant candidate of including the candidacy of the judge in the ballot paper.

6. The candidate may, within two working days following the receipt of the notification provided for by part 5 of this Article, submit an application to the Head of Judicial Department with a request of not including his or her name in the ballot paper.

6.1. In case of failure to submit the application provided for by part 6 of this Article, the candidate shall, within a period of three days following the expiry of the time limit prescribed by the same part, submit to the Head of Judicial Department the completed questionnaire on integrity provided for by the Law "On the Commission for Prevention of Corruption" (hereinafter referred to as "the questionnaire on integrity").

6.2. The Head of Judicial Department shall, within a period of one day following the receipt of the questionnaire, submit the questionnaire on integrity to the Commission for Prevention of Corruption for the purpose of receiving an advisory opinion within a period of ten days.

6.3. The Head of Judicial Department shall, following the receipt of the advisory opinion of the Commission for Prevention of Corruption related to the candidate, provide the opinion to the members of General Assembly at least three days before the session of the General Assembly.

7. The vote shall be held with individual ballot papers, according to the court instances mentioned in part 1 of this Article.

8. When voting with the ballot paper of the courts of each instance, the participant of the General Assembly shall be entitled to one vote for each vacant position of the court of the relevant instance.

9. The voting results shall be summarised by the Counting Commission.

10. Candidates from the relevant ballot paper having received the maximum number of votes of the participants of the General Assembly, calculated according to the number of vacant positions, shall be deemed elected in the position of the judge member of the Supreme Judicial Council, where the requirements prescribed by parts 1-3 of this Article are not violated by the result thereof. Where more than one candidate has received maximum votes for each position, preference shall be given to the candidate with a longer judicial experience, and where the duration of experience is also equal — to the candidate with a longer experience of professional work.

11. Where the requirements prescribed by parts 1-3 of this Article are violated in case the candidates having received the maximum number of votes are deemed elected, the candidate from among the candidates of the same court instance, having the maximum coefficient, in case of election whereof the requirements prescribed by parts 1-3 of this Article are not violated, shall be deemed elected instead of the candidate violating one of those requirements and having received the lowest coefficient. Where there is no such candidate, the issue of replacement of the candidate having received the next lowest coefficient shall be considered, and so on until the requirements prescribed by parts 1-3 of this Article are met.

12. Where, after considering the replacement of all the candidates having received the maximum number of votes through the process prescribed by part 11 of this Article, the requirements prescribed by parts 1-3 of this Article are violated anyway, the process shall be

repeated, restricting gender representation to four members.

13. Where, as a result of the process provided for by part 12 of this Article, the vacant positions are failed to be filled, the process prescribed by part 11 of this Article shall be repeated once again, without considering the requirement prescribed by part 3 of this Article. Where, in case of repetition, the vacant positions are failed to be filled again, a new election shall be held.

14. After summarising the results of the election of judge members of the Supreme Judicial Council, they shall be immediately published on the official website of the judiciary.

15. The details of organising the vote shall be prescribed by the Rules of Procedure of the General Assembly.

16. The coefficient provided for by part 11 of this Article shall be calculated for each candidate according to the following formula:

$$\text{coefficient} = a \times b / c,$$

where:

"a" is the number of candidates included in the relevant ballot paper,

"b" is the number of votes received by the candidate,

"c" is the number of vacant positions subject to election by the relevant ballot paper.

(Article 76 supplemented and edited by HO-197-N of 25 March 2020)

(The Law HO-197-N of 25 March 2020 contains a transitional provision relating to part 16 of Article 76)

Article 77. Establishment of Commissions of the General Assembly

1. The General Assembly shall establish the Ethics and Disciplinary Commission, the Commission for Performance Evaluation of Judges and the Training Commission.

2. The Commissions shall exercise the functions vested therein by this Code and other laws.

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 provided for by this Code. The same person may not simultaneously be a member of two Commissions of the General Assembly.

4. The Ethics and Disciplinary Commission shall be composed of eight members, six out of which shall be judge members, and two — non-judge members. Two out of the judge members shall be selected from among the judges of specialised courts, *i.e.* two — from among the judges of the Court of First Instance of General Jurisdiction— each of them holding criminal and civil specialisation, respectively, one — from among the judges of the Courts of Appeal, one — from among the judges of the Court of Cassation.

5. The candidates for judge members of the Ethics and Disciplinary Commission shall be nominated through self-nomination or through being nominated by another judge upon the consent of the candidate.

6. The judge members of the Ethics and Disciplinary Commission shall be elected by the General Assembly, through secret ballot, for a period of four years.

7. Candidates for non-judge members of the Ethics and Disciplinary Commission shall be nominated as prescribed by part 9 of this Article.

8. The lawyer possessing high professional qualities, holding an academic degree in Law or at least five years of professional work experience, not holding membership to any political party and having not been imposed the restrictions provided for by points 1, 2, 5 and 6 of part 1 of Article 112 of this Code, may be nominated as a non-judge member of the Ethics and Disciplinary Commission.

9. In order to engage the candidates provided for by part 8 of this Article, the Judicial Department shall, at least thirty days prior to the election of the judge members of the Ethics and Disciplinary Commission, announce a competition, within the framework whereof the non-governmental organisations meeting the requirements defined by the Supreme Judicial Council may each nominate one candidate. Biographies of the candidates and information regarding the organisations representing them shall be published on the official website of the judiciary. The requirements to non-governmental organisations provided for by this part, the procedure and particulars for holding the competition and selecting the members of the Commission shall be defined by the Supreme Judicial Council.

10. The non-judge members of the Ethics and Disciplinary Commission shall be elected by the General Assembly, by majority of votes of judges participating in voting, through open ballot, for a period of four years. The education of the candidate, his or her compliance with the requirements defined by this Article and the compliance of the organisation having represented him or her with the requirements defined by the Supreme Judicial Council and other noteworthy circumstances shall be taken into consideration during the election.

11. The Training Commission shall be composed of seven members, five out of which shall be judge members and two — non-judge members. One of the judge members shall be selected from among the judges of the Court of Cassation, two — from among the judges of the Courts of Appeal, two — from among the judges of Courts of First Instance.

12. The lawyer possessing high professional qualities and holding an academic degree in Law or at least five years of professional work experience, may be selected as a non-judge member of the Training Commission.

13. The Commission for Performance Evaluation of Judges shall be composed of five members, three out of which shall be judge members, and two — academic lawyers. One of the judge members shall be selected from among the judges of the Court of Cassation, one — from among the judges of the Courts Of Appeal, and one — from the Courts of First Instance.

14. The judge possessing at least five years of work experience in the position of a judge and given his or her performance evaluated — having gained high or good grade based on the recent results of evaluation, may be elected as a member of the Commission for Performance Evaluation of Judges.

15. The academic lawyer possessing high professional qualities and holding an academic degree in Law and at least five years of work experience, may be elected as a member of the Commission for Performance Evaluation of Judges.

16. Candidates for members of the Commission for Performance Evaluation of Judges

and the Training Commission shall be nominated through self-nomination or through being nominated, upon consent of the candidate, by another judge, and non-judge members — also through being nominated by non-governmental organisations meeting the requirements defined by part 9 of this Article.

17. Members of the Commission for Performance Evaluation of Judges and of Training Commission shall, in accordance with the rules of procedure approved by the General Assembly, be elected by the General Assembly through secret ballot, for a period of four years.

18. In case of failure to elect, by the General Assembly, the members of a Commission within a period of one month after the day the positions of non-judge members of the Commissions provided for by this Article remain vacant, these members shall be elected by the Supreme Judicial Council within a period of ten days.

19. The non-judge members of the Commissions shall be paid compensation in the manner and in the amount prescribed by the Government.

(Article 77 edited by HO-197-N of 25 March 2020)

Article 77.1. Discontinuation and termination of powers of members of the Commissions of the General Assembly

1. The powers of a member of a Commission shall discontinue in case of:
 - (1) expiry of the term of powers thereof;
 - (2) his or her resignation;
 - (3) being declared as having no active legal capacity, having limited active legal capacity, as missing or dead, based on a civil judgment of the court entered into legal force;
 - (4) rendering a criminal judgment of conviction, entered into legal force, against him or her, or termination of the criminal prosecution on a non-acquittal ground;
 - (5) his or her death;
 - (6) discontinuation or termination of the powers of a judge in case of a judge member.
2. The powers of a member of a Commission shall be terminated in case of:
 - (1) having been absent from at least half of the sessions of a Commission during one year due to long-term incapacity for work or other valid reason;
 - (2) having been absent, for non-valid reasons, from the sessions of a Commission at least twice during one year;
 - (3) refusing to vote or abstaining from voting at least once, except for the cases excluding participation in the voting prescribed by this Code;
 - (4) failure to perform his or her duties provided for by law and by working procedure of the Commission.
3. In case the Chairperson of a Commission fails to convene a session in order to resolve the issue of termination of the powers of a member of the Commission, the session shall

be convened by at least three members of the Commission. The Commission shall render a decision on termination of the powers of a member of the Commission.

4. The powers of the Chairperson of a Commission shall discontinue in case of discontinuation or termination of his powers as a member of the Commission, as well as in the case of his or her resignation from the position of the Chairperson of the Commission. Failure by the Chairperson of the Commission to perform his or her duties shall serve as a ground for termination of his or her powers upon the decision adopted by at least two thirds of the total number of votes of the members of the Commission.

5. In case there is a vacant position of a member of a Commission, the Chairperson of the Commission shall, within a period of seven days, apply to the Chairperson of the Court of Cassation in order to convene an extraordinary General Assembly and to organise the election of a new member of the Commission. The extraordinary General Assembly must be convened within a period of one month following the receipt of the application of the Chairperson of the Commission.

(Article 77.1 supplemented by HO-197-N of 25 March 2020)

Article 78. Functions and activities of Commissions of the General Assembly

1. Each Commission shall, by majority of votes of the members of the Commission, elect a Chairperson of the Commission from among its judge members, who shall manage the current activities of the Commission.

2. The Ethics and Disciplinary Commission shall:

- (1) institute disciplinary proceedings against judges;
- (2) exercise other powers vested therein by this Code.

3. The Training Commission shall:

- (1) approve the procedure for training of judges;
- (2) propose the candidacy of a judge for the evaluation of contenders for judge candidates upon his or her consent;
- (3) submit proposals regarding the courses or topics to the Academy of Justice, for the purpose of including in syllabuses for judges, contenders for judge candidates and judge candidates;
- (4) submit the list of persons to be trained during the upcoming year to the Academy of Justice, with an indication of selection of courses;
- (5) prescribe the amount of training hours of judges, contenders for judge candidates and judge candidates;

(6) propose to the Academy of Justice probation supervisors of contenders for judge candidates;

(7) exercise other powers vested therein by law.

4. The Commission for Performance Evaluation of Judges shall:

- (1) conduct performance evaluation of judges;
- (2) in case of detecting a violation of material or procedural law or violation of the rules of judicial conduct (including essential disciplinary violation) prescribed by Article 142 of this Code, apply to the Ethics and Disciplinary Commission to consider the issue of instituting disciplinary proceedings against the judge;
- (3) perform other functions reserved thereto under this Code.

(Article 78 amended by HO-197-N of 25 March 2020)

(The Law HO-197-N of 25 March 2020 contains a transitional provision relating to Article)

(Part 4 of the Article 78 will enter into force on 31 July 2020 from the moment of formation of the Commission for Performance Evaluation of Judges in accordance with the Decision of the RA General Assembly of Judges N-04A of 31 July 2020)

SECTION 3

THE SUPREME JUDICIAL COUNCIL

CHAPTER 14

COMPOSITION AND POWERS OF THE SUPREME JUDICIAL COUNCIL

Article 79. The Supreme Judicial Council

1. The Supreme Judicial Council shall be an independent state body guaranteeing the independence of courts and judges through exercising the powers prescribed by the Constitution and this Law.

2. The Supreme Judicial Council shall exercise the powers of imposing disciplinary action against a judge, terminating the powers of a judge, examining appeals against decisions on imposing disciplinary action against a judge and terminating the powers of a judge through panels prescribed by this Code that act on behalf of the Supreme Judicial Council, acting as the Supreme Judicial Council

Article 80. Requirements for members of the Supreme Judicial Council

1. Pursuant to part 1 of Article 174 of the Constitution, the Supreme Judicial Council shall be composed of ten members.

2. Pursuant to part 2 of Article 174 of the Constitution, a judge having at least 10 years of experience as a judge may be a member of the Supreme Judicial Council elected by the General Assembly.

3. Within the meaning of this Law, the period of holding office of a judge in the Constitutional Court, in an international court of which the Republic of Armenia is a member, as well as of a member of the Supreme Judicial Council elected by the National Assembly, shall also be considered as experience as a judge.

4. A member of the Supreme Judicial Council elected by the General Assembly may not act as chairperson of a court or chairperson of a chamber of the Court of Cassation. If the chairperson of a court or chairperson of a chamber of the Court of Cassation is elected as a member of the Supreme Judicial Council by the General Assembly, his or her powers as the chairperson of a court or chairperson of a chamber of the Court of Cassation shall discontinue.

5. Pursuant to part 3 of Article 174 of the Constitution, academic lawyers or 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 elected as members of the Supreme Judicial Council by the National Assembly.

6. Within the meaning of this Article, professional work experience shall mean professional activities carried out in the field of law.

7. A person may submit materials which show that he or she is a prominent lawyer.

8. A judge may not be elected as a member of the Supreme Judicial Council by the National Assembly.

9. A person to whom any of the restrictions on being appointed as a judge, prescribed by this Code, apply may not be elected as a member of the Supreme Judicial Council by the National Assembly.

Article 81. Procedure for the formation of the Supreme Judicial Council

1. The judge members of the Supreme Judicial Council shall be elected by the General Assembly, as prescribed by Article 76 of this Code.

2. The other members of the Supreme Judicial Council shall be elected by the National Assembly as prescribed by part 3 of Article 174 of the Constitution of the Republic of Armenia and by Constitutional Law of the Republic of Armenia "Rules of Procedure of the National Assembly".

3. The Chairperson of the Supreme Judicial Council shall — not earlier than two months and not later than one month before the expiry of the term of office of the member of the Supreme Judicial Council or, if a vacant position of a member of the Supreme Judicial Council opens up on other grounds, within a one-day period — apply to the General Assembly or the National Assembly, respectively.

4. A judge member of the Supreme Judicial Council shall be elected within a period of one month following the day of receipt of the notification provided for by part 3 of this Article. The session of the General Assembly aimed at election of a judge member of the Supreme Judicial Council to be elected by the General Assembly shall be convened within a period which will ensure the provision of an advisory opinion of the Commission for Prevention of Corruption, related to the candidates for members of the Supreme Judicial Council, to the members of the General Assembly within the time limit prescribed by part 6.3 of Article 76 of this Code.

5. Where the National Assembly fails to elect a member of the Supreme Judicial Council within a period of three months following the day when the vacant position of the member of the Supreme Judicial Council to be elected by the National Assembly opens up, the President of the Republic shall, until said member is elected by the National Assembly, within a period of fifteen days, appoint an acting member who must comply with the requirements prescribed by the Constitution and this Code for members of the Supreme Judicial Council elected by the National Assembly.

6. The election of a new judge member of the Supreme Judicial Council shall be held in accordance with the requirements prescribed by parts 1-3 of Article 76 of this Code.

7. Where a judge member of the Supreme Judicial Council is transferred to another court or obtains the status of a reserve judge, he or she shall continue to hold the office of a member of the Supreme Judicial Council.

(Article 81 supplemented by HO-197-N of 25 March 2020)

Article 82. The term of powers and oath 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 consecutively.

2. Members of the Supreme Judicial Council elected by the National Assembly and those elected by the General Assembly shall, immediately after being elected, ceremoniously and individually take the following oath at the National Assembly or during the session of the General Assembly, respectively: "Entering on the high office of 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, ensuring the rule of law, guaranteeing independence of courts and judges."

3. Following the oath, the member of the Supreme Judicial Council shall sign under the text of the oath.

4. The newly-elected member of the Supreme Judicial Council shall assume his or her office on the day of expiry of the term of office of the relevant member of the Supreme Judicial Council or, if the vacant position of the member of the Supreme Judicial Council had opened up on other grounds, on the day he or she is elected.

5. In the case of election of a judge of the Constitutional Court as a member of the Supreme Judicial Council by the National Assembly, it shall be deemed that the judge of the Constitutional Court has filed a resignation, and his or her powers as a judge shall discontinue from the day of assumption thereby of powers of a member of the Supreme Judicial Council.

Article 83. Incompatibility requirements for members of the Supreme Judicial Council elected by the National Assembly and guarantees for the activities thereof

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

2. The remuneration of a member of the Supreme Judicial Council shall be prescribed by law, and it may not be less than the remuneration of a judge of the Court of Cassation.

3. Where a person has been elected as a member of the Supreme Judicial Council by the National Assembly while holding office of a judge of the Constitutional Court, in the case of acquiring by law the right to pension following the expiry of the powers of a member of the Supreme Judicial Council, it shall be deemed when calculating the amount of the pension that he or she has retired on a pension while holding the office of a judge.

4. Where a person has been elected as a member of the Supreme Judicial Council by the National Assembly while holding office of a judge of the Constitutional Court and the amount of remuneration received by that person as a judge of the Constitutional Court exceeds the amount of remuneration prescribed by law for a member of the Supreme Judicial Council, the remuneration received by that person as a judge of the Constitutional Court shall be preserved, and if it is lower, he or she shall receive remuneration in the amount prescribed by law for a member of the Supreme Judicial Council. The guarantee prescribed by this part shall also apply to members of the Supreme Judicial Council elected by the General Assembly.

5. Articles 51, 53-55, 57-60, 62-64 and rules of Chapter 21 of this Code shall apply mutatis mutandis to members of the Supreme Judicial Council elected by the National Assembly, to the extent they are applicable, and unless otherwise prescribed by this Code.

6. The provisions enshrined in Article 52 of this Code shall extend to probative actions carried out in the building of the Supreme Judicial Council.

Article 84. Chairperson of the Supreme Judicial Council

1. In accordance with part 7 of Article 174 of the Constitution of the Republic of Armenia, the Supreme Judicial Council shall elect a Chairperson of the Council, successively from among the members elected by the General Assembly and the National Assembly.

2. In order to elect the Chairperson of the Supreme Judicial Council, a secret ballot shall be held in respect of all the candidates selected from among the members by the General Assembly or the National Assembly, respectively.

3. The Chairperson of the Supreme Judicial Council shall be elected by majority of votes of all the members of the Supreme Judicial Council.

4. The ballot paper shall be prepared, wherein all the candidates shall be included.

5. When voting, a member of the Supreme Judicial Council shall have the right to one vote. Where a participant of the vote has voted for several members, the ballot paper in question shall be deemed to be invalid.

6. Where, the vote held does not result in any of the candidates receiving more than half of the votes, an additional vote shall be held, wherein the two candidates having received the

greatest number of votes shall participate.

7. Where, due to equality of votes, it is impossible to determine the two candidates having received the greatest number of votes, preference shall be given to the candidate with a longer professional work experience, and in the case of an equal experience — to the eldest candidate.

8. In the additional vote, each member of the Supreme Judicial Council shall have the right to one vote. In the additional vote, the candidate having received more than half of the votes shall be deemed to be elected. Where no one has received at least half of "for" votes of the participants of the vote, a new election shall be held.

9. The Chairperson of the Supreme Judicial Council shall be elected for two years and six months, without the right to be re-elected, but not longer than until expiry of his or her term of office as a member of the Supreme Judicial Council.

10. The election of the new Chairperson of the Supreme Judicial Council shall be held within a period of ten days after the position of the Chairperson of the Supreme Judicial Council remains vacant.

11. The Chairperson of the Supreme Judicial Council shall convene and preside over the sessions of the Supreme Judicial Council **except for cases prescribed by this Code**, sign the decisions of the Supreme Judicial Council, represent the Supreme Judicial Council in relations with other bodies, as well as exercise other powers aimed at ensuring normal operation of the Supreme Judicial Council.

12. In the case of a leave or business trip, the powers of the Chairperson of the Supreme Judicial Council shall be temporarily exercised by the member of the Supreme Judicial Council appointed by the Chairperson.

13. Where the Chairperson of the Supreme Judicial Council fails to appoint a substitute for him or her in the case of being on a leave or business trip, or in the cases of his or her temporary incapacity, suspension, discontinuation, termination of his or her powers, the duties of the Chairperson of the Supreme Judicial Council shall be performed by the eldest member.

(Article 84 supplemented and amended by HO-197-N of 25 March 2020)

Article 85. Disciplinary action against a member of the Supreme Judicial Council

1. The Supreme Judicial Council may impose disciplinary action against a member of the Supreme Judicial Council for violating the rules of conduct of a judge prescribed by this Code.

2. The issue of imposing disciplinary action against a member of the Supreme Judicial Council shall be examined by the Supreme Judicial Council based on a motion filed by at least three members of the Supreme Judicial Council. The Commission for Prevention of Corruption shall institute disciplinary proceedings against a member of the Supreme Judicial Council and shall apply to the Supreme Judicial Council with a motion of subjecting him or her to disciplinary liability with respect to violation of the rules of conduct provided for by points 15 and 16 of part 1 of Article 69 of this Code.

3. Disciplinary proceedings instituted against a member of the Supreme Judicial Council shall be regulated by the rules of Chapter 19 of this Code, taking into consideration the requirements of this Article.

(Article 85 supplemented by HO-197-N of 25 March 2020)

Article 86. Discontinuation, termination and suspension of powers of a member of the Supreme Judicial Council

1. The cases of discontinuation 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 force of a criminal judgment of conviction rendered against him or her or termination of criminal prosecution on non-acquitting grounds;
- (4) entry into force of a civil judgment of the court declaring him or her as having no active legal capacity, having limited active legal capacity, missing or dead;
- (5) his or her resignation;
- (6) his or her death;
- (7) in the case of being a judge, termination or discontinuation of his or her powers.

2. The powers of a member of the Supreme Judicial Council shall discontinue according to the rules prescribed by Chapter 20 of this Code.

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

- (1) he or she violates incompatibility requirements;
- (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 lasting over four subsequent months, or over six months in a calendar year, except for the reasons of being on maternity leave, child-birth or child adoption leave, or where after being elected he or she acquires a physical impairment, or an illness, hindering his or her appointment to the position after being elected;
- (4) he or she has committed an essential disciplinary violation;
- (5) he or she fails, without a good reason, to participate in sessions of the Supreme Judicial Council at least two times within a year;
- (6) he or she has refused to vote or abstained from voting at least once, except for the cases, provided for by this Code, excluding his or her participation in the vote;
- (7) he or she fails, at least once, to inform about the circumstances excluding his or her participation in the session of the Supreme Judicial Council.

4. In the case of failure by the Chairperson of the Supreme Judicial Council to

convene a session of the Supreme Judicial Council within the time limit prescribed by this Code for deciding on the issue of termination of powers of a member of the Supreme Judicial Council, the session shall be convened by at least three members of the Supreme Judicial Council.

5. In cases when the powers of a member of the Supreme Judicial Council terminate, the Supreme Judicial Council shall render a decision.

6. In cases when powers of a member of the Supreme Judicial Council terminate or discontinue, the Chairperson of the Council shall immediately apply to the National Assembly or the General Assembly, respectively, for electing a new member of the Supreme Judicial Council.

7. In the case of suspension of the judicial powers of a judge member of the Supreme Judicial Council, his or her powers as a member of the Supreme Judicial Council shall also be suspended.

8. The powers of a member of the Supreme Judicial Council elected by the National Assembly shall be suspended in the case of giving consent to initiating criminal prosecution against him or her or depriving him or her of liberty.

(Article 86 supplemented by HO-197-N of 25 March 2020)

Article 87. Discontinuation or termination of powers of the Chairperson of the Supreme Judicial Council

1. The powers of the Chairperson of the Supreme Judicial Council shall discontinue in the following cases:

(1) discontinuation or termination of his or her powers as a member of the Supreme Judicial Council;

(2) his or her resignation from the position of the Chairperson of the Supreme Judicial Council.

2. Failure by the Chairperson of the Supreme Judicial Council to perform his or her duties shall serve as a ground for termination of his or her powers based on the decision adopted by at least a two-thirds vote of all the members of the Supreme Judicial Council.

Article 88. Participation of a member of the Supreme Judicial Council in decision-making

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

2. A member of the Supreme Judicial Council may not participate in the discussion of the issue and decision-making, where there is a ground for self-recusal of a judge with regard to that issue.

3. A member of the Supreme Judicial Council shall be obliged to submit a motion for self-recusal to the Supreme Judicial Council immediately upon becoming aware of the ground for self-recusal, stating the circumstances serving as a ground for self-recusal.

4. A member of the Supreme Judicial Council and a party to the proceedings

may raise the issue of seeking the recusal of a member of the Supreme Judicial Council.

5. The person presiding over the session of the Supreme Judicial Council shall initiate a discussion of the issue of self-recusal or recusal, which shall be discussed with the participation of the member of the Supreme Judicial Council having recused himself or herself or whose recusal is being sought.

6. As a result of the discussion of the issue, the Supreme Judicial Council shall render a decision. The member of the Supreme Judicial Council having recused himself or herself or whose recusal is being sought, as well as the member having sought the recusal, shall not participate in the vote on self-recusal or recusal.

6.1. Where during the vote on self-recusal or recusal of a member of the Supreme Judicial Council, the members of the Supreme Judicial Council that included in the panels prescribed by part 1.1 of Article 141 and part 1 of Article 156.2 of this Code and entitled to participate in the voting, are less than 3, a member of the Council not included in the relevant panels shall also be engaged in the examination of the issue on self-recusal or recusal by drawing lots. The procedure for drawing lots prescribed by this part shall be defined by the Supreme Judicial Council.

7. Where the self-recusal or recusal is accepted, the member in question shall not participate in the examination of and decision-making on the issue with regard whereof a ground for self-recusal exists.

Article 89. Powers of the Supreme Judicial Council

1. The Supreme Judicial Council shall:

(1) compile and approve the list of judge candidates, including the promotion list of judge candidates;

(2) propose to the President of the Republic judge candidates subject to appointment, including those subject to appointment by way of promotion;

(3) propose to the President of the Republic candidates for the chairpersons of courts and candidates for the chairpersons of chambers of the Court of Cassation subject to appointment;

(4) propose to the National Assembly candidates for judges and for the Chairperson of the Court of Cassation;

(4.1) appoint (nominate), in the case and in the manner prescribed by law, a representative (member) of the Supreme Judicial Council in competition councils (competition commissions) and in other bodies (5) decide on the issue of secondment of a judge 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 **and examine appeals against decisions rendered with regard to imposing disciplinary actions against a judge;**

(8) decide on the issue of termination of the powers of judges and **examine appeals**

against decisions on terminating the powers of a judge.

- (9) record the existence of the circumstance serving as a ground for discontinuation of the powers of a judge;
- (10) approve the estimate of its expenses, as well as of those of the courts;
- (11) submit the budget bid of the Supreme Judicial Council and courts to the Government for including it, as prescribed by law, in the Draft State Budget;
- (12) approve the Medium-Term Expenditure Programme of the Supreme Judicial Council and courts and submit it to the Government according to the prescribed procedure;
- (13) distribute the means of the reserve fund of the courts;
- (14) decide on the issue of giving consent to initiating criminal prosecution against a member of the Supreme Judicial Council or depriving him or her of liberty in connection with the exercise of his or her powers;
- (15) decide on the issue of imposing disciplinary action against a member of the Supreme Judicial Council;
- (16) decide on the issue of termination of the powers of members and the Chairperson of the Supreme Judicial Council;
- (17) record the existence of the circumstance serving as a ground for discontinuation of the powers of a member of the Supreme Judicial Council;
- (18) consider any issue endangering the independence of a court or judge, and demand from competent bodies to take necessary measures aimed at the solution of the issue;
 - (18.1) address the issues related to regular functioning of the courts, resolve them within the scope of its powers or apply to state and local self-government bodies for their solution;
 - (18.2) "regularly summarize case law and statistics and prepare reports based on the results of the summary.
- (19) submit recommendations to the competent state bodies on the improvement of regulatory legal acts pertaining to the judiciary;
- (20) provide an opinion on draft regulatory legal acts pertaining to the judiciary;
- (21) approve the procedure for circulation in courts of draft regulatory legal acts pertaining to the judiciary;
- (22) approve the rules of interaction of the Supreme Judicial Council and courts with the mass media;
- (23) approve the rules of submission of documents to courts, of classification of cases according to types, as well as other documentation management rules of courts;
- (24) with the consent of the Government, increase the number of judges of certain courts, reduce the number of judges increased by the Supreme Judicial Council;
- (25) prescribe the seats of courts of first instance, not prescribed by this Code, the area served by the seats, approve the distribution and number of judges according to seats and specialisations;

(26) provide the description of standard furnishing for a courtroom and an office room of a judge;

(27) prescribe the internal working disciplinary rules of judges and the procedure for substituting the missing judges of the panel;

(28) define recommended average durations for examination of cases(including by stages) according to the specific types and complexity of cases;

(29) prescribe the procedure for calculating the workload of a judge, as well as the criteria for the workload of a judge;

(30) prescribe the procedure for establishing the duty schedule of judges carrying out judicial oversight over pre-trial criminal proceedings and motions for carrying out operational intelligence measures;

(31) approve the Charter of the Judicial Department and exercise all the powers of the founder of the Judicial Department;

(32) appoint and dismiss the head of the Judicial Department;

(33) approve, upon the proposal of the head of the Judicial Department, the list of positions and job descriptions of court bailiff service, as well as define the number of staff positions of the Judicial Department;

(34) ***(Point repealed by HO-75-N of 21 January 2020)***

(35) ***(Point repealed by HO-75-N of 21 January 2020)***

(36) approve the procedure for conducting the training of court bailiffs;

(37) submit proposals regarding the courses or topics to the Academy of Justice for the purpose of including them in syllabuses for court bailiffs;

(38) define the amount of training hours for court bailiffs;

(39) define the types and forms of badges awarded to court bailiffs as an incentive;

(40) define the types and forms of badges of court bailiffs;

(41) prescribe the procedure for allocating uniforms to court bailiffs and the wearing rules;

(42) prescribe the procedure for the oath of citizens joining the service as court bailiffs at the court bailiff service for the first time;

(43) approve its Operations Procedure;

(44) define the procedure for granting entry passes and the safety rules in the buildings of the Supreme Judicial Council and courts;

(44.1) defines the procedure for involving experts and the requirements for them if it is necessary to involve experts in the qualification examination for replenishing the list of candidates to judges.

(45) exercise other powers prescribed by this Code.

2. The Supreme Judicial Council shall, while exercising its powers provided for by

points 22, 25, 34-36, 41 and 44 of part 1 of this Article, as well as other powers, adopt secondary regulatory legal acts when prescribing statutory regulation.

(Article 89 supplemented by HO-181-N of 13 September 2019, amended by HO-75-N of 21 January 2020 and supplemented by HO-197-N of 25 March 2020)

CHAPTER 15

RULES OF PROCEDURE OF THE SUPREME JUDICIAL COUNCIL

Article 90. Sessions of the Supreme Judicial Council

1. The Supreme Judicial Council shall carry out its activities through sessions.
2. When examining the issues with regard to giving consent to imposition of disciplinary action against a judge or a member of the Supreme Judicial Council, to termination of powers of a judge or a member of the Supreme Judicial Council, **as-well-as** to initiating criminal prosecution against a judge or a member of the Supreme Judicial Council or depriving them of liberty in connection with the exercise of their powers **as well as when examining appeals against decisions rendered with regard to imposing disciplinary action against a judge and appeals against decisions on terminating the powers of a judge**, the Supreme Judicial Council shall act as a court.
3. The sessions of the Supreme Judicial Council shall be convened by the Chairperson of the Supreme Judicial Council either on his or her initiative or at the request of at least three members of the Council or that of the chairperson of a court. The initiator shall propose the issue to be included in the agenda.
 - 3.1. **The sessions of the Supreme Judicial Council on the issues with regard to imposing disciplinary action against a judge, terminating the powers of a judge, appeals against decisions rendered with regard to imposing disciplinary action against a judge and terminating the powers of a judge shall be convened and presided over by a member elected as prescribed by the Supreme Judicial Council.**
4. Other persons may be invited to sessions of the Supreme Judicial Council upon the recommendation of the Chairperson or at least three members of the Council.
5. The session of the Supreme Judicial Council shall be closed to the public, unless the Supreme Judicial Council renders a decision on holding the sessions open to the public.
6. In the case of acting as a court, the Supreme Judicial Council shall hold open sessions, except for the cases where, based on the motion of a member of the Supreme Judicial Council or a participant of the proceedings, they are held behind the closed doors, upon the reasoned decision of the Supreme Judicial Council, in order to protect the privacy of the participants of the proceedings, the interests of justice, as well as national security, public order or morals.

(Article 90 supplemented and amended by HO-197-N of 25 March 2020)

Article 91. Convening of sessions of the Supreme Judicial Council

1. The Chairperson of the Supreme Judicial Council **and in cases provided for by the Code — also the member entitled to convene and preside over the session** shall

convene and hold a session of the Supreme Judicial Council within a period of two weeks starting from the moment when an issue requiring a Council decision arises.

2. In the case 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, as well as in the case of existence of an imminent danger to the independence of a judge, sessions of the Supreme Judicial Council shall be convened immediately, but not later than on the following day of filing the request with the Council or obtaining the information.

3. Judge members of the Supreme Judicial Council holding offices in marzes shall, in connection with participation in a session of the Council, be reimbursed for overnight accommodation fees, travel expenses for leaving the marz for the place where the session of the Supreme Judicial Council is held and returning, as well as per diem, in the amount and under the procedure prescribed by the Government.

4. In the manner and within the time limit prescribed by the Operations Procedure of the Supreme Judicial Council, the Judicial Department shall notify the members of the Supreme Judicial Council, and other persons participating in the consideration of the issue, of the agenda, time and venue of the session of the Supreme Judicial Council. The materials regarding the issues included in the agenda shall be provided by the Judicial Department to the members of the Council at least two days before the consideration of the issue or, in the case of consideration of urgent issues, not later than right before the session.

Article 92. Quorum of sessions of the Supreme Judicial Council and postponement of sessions

1. A session of the Supreme Judicial Council shall have a quorum in the case of presence of the majority of all the members.

2. In the case of acting as a court, a session of the Supreme Judicial Council shall have a quorum in the case of presence of more than half all the members. **When examining the issues on imposing disciplinary action against a judge and terminating the powers of a judge, a session of the Supreme Judicial Council shall be deemed to have a quorum where more than half of the total number of members of the Council included in the panel provided for by part 1.1 of Article 141 of this Code participate in the session. When examining appeals against decisions on imposing disciplinary action against a judge and terminating the powers of a judge, a session of the Supreme Judicial Council shall be deemed to have a quorum where more than half of the total number of members of the Council included in the panel provided for by part 1 of Article 156.2 of this Code participate in the session.**

3. In the case of absence of a quorum, the session shall be deemed not to have taken place.

4. A session of the Supreme Judicial Council may be adjournedpostponed if the working day has ended, except for the issues that require immediate examination.

5. A session of the Supreme Judicial Council shall also be adjourned:

(1) in case the members of the Council have been provided with the materials regarding the issue later than the time limit prescribed by this Code, where a member of the Council insists on that;

(2) in the case of existence of other exceptional circumstances that make examination of the issue impossible during the current session.

Article 93. Holding sessions at the Supreme Judicial Council

1. Members of the Supreme Judicial Council shall be obliged to participate in the sessions of the Council.
2. The sessions of the Supreme Judicial Council shall be presided over by the Chairperson of the Council or the member of the Council substituting him or her **and in cases provided for by the Code — the member entitled to preside over the session.**
3. The person presiding over the session shall open the session of the Supreme Judicial Council by putting to vote the issue of approval of the agenda, then announce the issue that must be considered and the rapporteurs, and shall, where necessary, initiate a discussion on the order of examination of the issues included in the approved agenda.
4. A session of the Supreme Judicial Council shall commence with the report of the Chairperson of the Council or, upon his or her assignment, another member of the Council.
5. Members of the Supreme Judicial Council shall have the right to deliver speeches on any issue considered in the Council, ask questions, submit recommendations, and file objections.
6. Minutes of sessions of the Supreme Judicial Council shall be taken as prescribed by the Operations Procedure of the Supreme Judicial Council.

Article 94. 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. Members of the Supreme Judicial Council present at its session shall be obliged to vote for or against each issue suggested for consideration, except for the cases provided for by this Code.
3. The Supreme Judicial Council shall — with a view to preparing issues subject to consideration thereby, as well as in connection with other issues related to the organisation of its activities — adopt procedural decisions. Procedural decisions shall be adopted through open ballot, by majority of votes of all the members of the Supreme Judicial Council having participated in the vote.
4. Decisions of the Supreme Judicial Council shall be adopted, through open ballot, by majority of votes of all the members of the Council, except for the cases prescribed by this Code.
5. In the cases of compiling and approving the lists of judge candidates, including the promotion lists of judge candidates, and proposing to the President of the Republic judge candidates subject to appointment, the decisions of Supreme Judicial Council shall be adopted, in deliberation room, by majority of votes of all members of the Council, through open ballot.
6. Decisions of the Supreme Judicial Council on imposing disciplinary action against **a judge or** a member of the Supreme Judicial Council, on termination of the powers of **a judge**

~~or~~ a member of the Supreme Judicial Council, as well as on giving consent to instituting criminal prosecution against a judge or a member of the Supreme Judicial Council or depriving them of liberty in connection with the exercise of their powers, shall be adopted in the deliberation room by at least half of all the Council members' vote held through an open ballot.. Where the Supreme Judicial Council fails to adopt a decision due to the vote resulting in an insufficient number of votes in favour of any decision, the decision on rejecting the relevant motion shall be deemed to be adopted, and the decision shall be composed and signed by the members of the Supreme Judicial Council having voted in favour of rejecting the motion.

7. Except for the case provided for by part 6 of this Article, the decisions of the Supreme Judicial Council adopted while acting as a court shall be signed by all the members present at the session. A member of the Supreme Judicial Council may provide a special opinion on the argumentative or concluding part of the decision of the Supreme Judicial Council adopted while acting as a court. Where a member of the Supreme Judicial Council holds a special opinion, a relevant note thereon — verified by the signature of that member — shall be made in the decision of the Supreme Judicial Council, and the special opinion verified by the signature of that member shall be attached to the decision.

8. Individual decisions of the Supreme Judicial Council shall enter into force within the time limit prescribed therein.

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. Decisions on imposing disciplinary action against judges shall be subject to publication in the same manner after being depersonalised.

10. The decisions adopted by the Supreme Judicial Council while acting as a court shall also be subject to publication through the procedure envisaged for the publication of secondary regulatory legal acts of the Republic of Armenia.

11. When examining the issues on imposing disciplinary action against a judge, terminating the powers of a judge, the appeal against decisions on the issue with regard to imposing disciplinary action against a judge and terminating the powers of a judge, the rules prescribed by this Article shall apply to the acts of the Supreme Judicial Council and the procedure for adopting them, unless otherwise provided for by this Code.

(Article 94 supplemented, amended and edited by HO-197-N of 25 March 2020)

CHAPTER 16

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

Article 95. Decision regarding regular and extraordinary completion of the list of judge candidates

1. Completion of the list of judge candidates shall be performed according to criminal, civil and administrative specializations. The section of civil specialization shall also include the

specialization in bankruptcy. The anti-corruption specialization section shall include sub-sections on investigation of corruption crimes and investigation of anti-corruption civil cases.

2. The Supreme Judicial Council shall make a decision on the need to fill the relevant specialization section of the list of candidates for judges, taking into account the number of candidates available in the list of candidates for judges, the number of available and projected vacancies of judges of the relevant specialization and other circumstances that lead or may lead to the need to fill the list of candidates for judges. In cases defined in paragraph 3 hereof, replenishment of the list may be based on the fixed number of vacancies, in other cases, without limitation of the number of vacancies.

3. The Supreme Judicial Council shall render a decision on completing the relevant section of specialization of the list of judge candidates if the number of candidates included in the list of judge candidates under the sections of civil and criminal specialization's does not exceed the number of the vacant positions foreseen for the next two years by four, respectively, and under the section of administrative and anti-corruption specialization's — by two. This number does not include persons on the list of candidates for judges who have disagreed with their nomination offer due to leave for pregnancy and childbirth, adoption of a newborn or the appointment of a guardian of a newborn. The number of candidates required to complete the list of judge candidates shall be calculated so that it exceeds the number required to fill in the vacancies in the sections of criminal and civil specialization's during the next two years by seven candidates each, and in the section of administrative and anti-corruption specialization — by two candidates.

4. Based on the decision of the Supreme Judicial Council, an announcement shall be made on the official website for public notifications and on the official website of the judiciary, which must at least contain information on carrying out a qualification check for the purpose of completing the list of judge candidates, specifying the time limits and venue for accepting applications. In case of filling vacancies by fixed number, the announcement shall indicate the number of vacancies to be filled, according to the specialization sections of the list of candidates for judges.

Article 96. Qualification check

1. Qualification check shall consist of submitting and checking applications, holding a written examination and interview.

Article 97. Requirements for contenders for judge candidates

1. Persons between the ages of 25 and 60, having the right of suffrage, may participate in the qualification check in order to be included in the list of contenders for judge candidates, where:

- 1) they hold the citizenship of only the Republic of Armenia;
- (2) they have obtained a Bachelor's qualification degree in law or qualification degree of a certified specialist in higher legal education in the Republic of Armenia, or have obtained a relevant 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;
- (3) they are proficient in the Armenian language;
- (4) they have knowledge of at least one language from among English, Russian, and French, the required level of which is prescribed by the Supreme Judicial Council and checked

through standardised test systems;

(5) they have at least five years of professional experience only if they have a bachelor's degree in law or a corresponding degree in a foreign country, and in case of having Bachelor's or Master's qualification degree in law or qualification degree of a certified specialist in higher legal education, or having obtained a relevant degree in a foreign state, they have at least five years of professional work experience. (6) there are no restrictions provided for by this Code on being appointed as a judge.

(Article 97 amended and edited by HO-197-N of 25 March 2020)

Article 98. Submission of applications

1. A person contending for being included in the list of contenders for judge candidates (hereinafter referred to as "contender") shall, within a period of one month starting from the day following the day of publication of the decision on the qualification check, submit to the Supreme Judicial Council an application in the form prescribed by the Supreme Judicial Council in order to participate in the qualification check.

2. The following shall be attached to the application:

(1) copies of his or her identification document and identification card, and electronic mail address;

(2) five coloured photographs;

(3) card containing his or her biographical data;

(4) notary-certified oral statement on whether or not he or she has a conviction and whether or not he or she is bankrupt;

(5) document certifying the availability of the required qualification degree in legal education;

(6) document certifying the proficiency in the Armenian language;

(7) document certifying the proficiency in the required foreign languages at an appropriate level prescribed by the Supreme Judicial Council, except for the case provided for by part 3.1 of this Article;

(8) evidence certifying the required professional work experience, including job description, or other documents, certifying work duties;

(9) in the case of a male contender — document certifying the fact of completion of the compulsory military service or completion of alternative service or exemption from the compulsory military service;

(10) document issued under the procedure prescribed by the Government, certifying the absence of physical impairments and illnesses hindering the appointment to the position of a judge;

(11) consent with regard to obtaining from state bodies and officials, in the manner prescribed by the Supreme Judicial Council and to the extent necessary for checking the compliance with the requirements for contenders, necessary personal data, including information constituting a medical secret, and other information on him or her;

- (12) maximum three letters of recommendation, where he or she so wishes;
- (13) receipt of state duty payment made in the amount prescribed by law;
- (13.1) questionnaire on integrity;
- (14) written statement on the authenticity of the information submitted in the application and of the documents attached thereto.

3. The proficiency in the Armenian language shall be certified by the graduation document (course certificate, academic certificate, diploma) granted by educational institutions with regard to the fact of having received education in the Armenian language at the educational institutions or having completed a course of the Armenian language included in the educational programmes and having passed a final certification examination. In the case of lack of a graduation document certifying the proficiency in the Armenia language, the proficiency in the Armenian language shall be checked under the procedure prescribed by the Minister developing and implementing the policy of the Government in the field of education and science, which must envisage reasonable and objective criteria for checking the proficiency in the Armenian language, as well as procedures for supervision over the process.

3.1 Where, at the moment of submitting the application provided for by part 1 of this Article, the contender has knowledge of only Russian — checked through standardised test systems, he or she shall be obliged to present relevant evidence of knowledge of another language specified in point 4 of part 1 of Article 97 prior to completion of training at the Academy of Justice, otherwise he or she shall not be included in the list of judge candidates.

4. Within the meaning of this Code, professional work experience shall mean professional activity carried out in the field of law after having obtained a Bachelor's Degree or a qualification degree of a certified specialist in higher legal education, unless otherwise prescribed by this Code.

5. Professional work experience for persons provided for by Article 106, sub-point “a”, point 3 of part 6 of Article 123 and sub-point “a”, point 3 of part 2 of Article 123 shall mean teaching law at a higher educational institution and/or the “Academy of Justice” State Non-Commercial Organisation, “School of Advocates of the Republic of Armenia” Foundation or scientific work carried out at a scientific institution in the field of law.

(Article 98 supplemented by HO-197-N of 25 March 2020)

Article 99. Checking of applications and documents attached thereto Refusal to accept an application

1. The Judicial Department shall check the completeness and compliance of the application and the documents attached thereto, except for the completed questionnaire on integrity, with the prescribed requirements, as well as establish the authenticity of the provided information and submitted documents through written enquiries addressed to competent bodies.

2. The Supreme Judicial Council shall establish the procedure for making the relevant enquiries on contenders in accordance with this Code, the list of bodies involved in the enquiry and the form of written questionnaires used for enquiry, staying within the limits of the purpose of making such enquiries.

3. The Judicial Department shall, upon its decision, refuse to accept an application where it has been submitted in violation of the time limit prescribed by this Code or does not meet the requirements provided for by this Code. Any submitted documents shall be returned to the contender within three working days. Where the ground for refusing to accept the application contains elements of crime, the Judicial Department shall report thereon to the competent body.

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

5. In the case of appealing, through judicial procedure, against the refusal to accept an application, the contender may participate in the next and following stages of the qualification check.

6. If the refusal to accept an application is declared unlawful by the court, the contender shall continue to participate in the next and following stages of the qualification check without submitting a new application. If the statement of claim is rejected, the contender shall not participate in the next and following stages of the qualification check and shall be struck out of the process of the qualification check, and where he or she has participated in any stage, he or she shall be deemed not to have participated therein, irrespective of the result.

(Article 99 supplemented by HO-197-N of 25 March 2020)

Article 100. Arranging written examination for qualification

1. The Supreme Judicial Council shall, not later than before 15 September of each year, define and publish the form of the written examination for qualification, the minimum requirements for the structure and content of the examination questions, the procedure for arranging and holding the written examination, including the procedure for distribution of examination materials, process of the examination, use of legal or other documents or technical means, evaluation of the examination papers, the minimum passing score based on the results of the written examination (which may not be less than sixty per cent of the maximum possible score).

2. The Supreme Judicial Council shall select a relevant specialist (specialists) or a specialised organisation for developing the questions of the written examination. The person developing the questions of the written examination shall receive remuneration in the amount and under the procedure prescribed by the Government.

3. The person developing the questions of the written examination shall be obliged to keep the questions and answers of the written examination confidential, as well as not help a contender in answering the questions of the written examination in any manner. The Supreme Judicial Council shall be obliged to ensure a process that will guarantee the confidentiality of the questions of the written examination until the beginning of the written examination. Developing of questions of the written examination may not be assigned to members of the Supreme Judicial Council or the Judicial Department. Persons having developed the questions of the written examination may not participate in the evaluation of the results of the written examination held on the basis of those questions.

4. The Supreme Judicial Council shall define the minimum number of options for written tasks for holding a written examination.

5. The Judicial Department shall publish at least one sample of the tasks for the written examination on the official website for public notifications and on the official website of the judiciary at least 10 days prior to the day of holding the written examination.

6. The Supreme Judicial Council may establish a procedure for holding the written examination by technical means.

Article 101. Publication of the time, venue and results of holding the written examination for qualification and the interview

1. The announcement on the time and venue of holding the written examination for qualification and the interview 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 examination for qualification or the interview.

2. The scores obtained by the contenders as a result of the written examination for qualification shall be published on the official website for public notifications and on the official website of the judiciary immediately following the summarisation of the results.

3. The results of the interview held by the Supreme Judicial Council shall be published on the official website for public notifications and on the official website of the judiciary immediately following the summarisation of the results.

Article 102. Transparency of the written examination for qualification and the interview

1. The Judicial Department shall ensure live broadcast of the entire process of the written examination and the interview in an area located outside the examination room.

2. The entire process of the written examination and of the interview, except for the final discussion of the results of the interview among the members of the Supreme Judicial Council, shall be audio-video recorded by the Judicial Department. Other persons, including representatives of state bodies, officials and mass media, may follow the entire process of the written examination and interview without the possibility of audio-video recording.

3. A person having participated in the qualification check shall have the right to receive a duplicate copy of the audio-video recording of the entire process of the written examination and the part of the interview relating to him or her, as well as a copy of his or her work checked as a result of the written examination for qualification.

4. One representative of the Minister developing and implementing the policy of the Government in the field of justice (hereinafter referred to as "the Authorised Body"), two advocates-representatives of the Chamber of Advocates and up to three 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 holding the written examination for qualification, selected based on the chronological order of submission of the applications, one representative from each non-governmental organisation, may be present at the written examination for qualification and the interview and follow their process, except for the final discussion of the results of the interview among the members of the Supreme Judicial Council. The Judicial Department shall provide the specified 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.

Article 103. Tasks of written examination for qualification

1. The written examination for qualification shall be held through written tasks in the fields of criminal, civil, administrative *and* anti-corruption specialisation, respectively, which in addition to checking the theoretical legal knowledge, shall also be aimed at checking the contender's skills at analysing and applying the law.

2. is repealed

3. The written tasks may also include legal problems requiring analysis and application of the norms of law or test assignments on brief legal hypothetical problems requiring that the candidate choose the right solutions for them, and may also include requirements for the analysis of legal proceedings, drafting of litigation documents, and other requirements based on the review of the complete hypothetical case file. 3.1. When developing written tasks in the field of anti-corruption specialization, corruption issues, including money laundering, shall be included in the written tasks for the corruption crimes investigation sub-subsection of the corruption crimes investigation section, and issues related to the protection of property and non-property interests of the state through civil proceedings and cases of confiscation of property on the basis of the Law on Confiscation of Assets of Illegal Origin, to sub-sections of anti-corruption civil cases examination of the anti-corruption specialization section.

4. During the written examination for qualification, the contender shall be provided with the necessary literature, legal acts and other materials determined by the specialist or specialised organisation having developed the questions.

Article 104. Commissions checking the results of the written examinations for qualification

1. An evaluation commission specialised in the relevant field shall, upon the decision of the Supreme Judicial Council, be formed for the purpose of checking and evaluating the papers of a written examination for qualification.

2. An evaluation commission shall be composed of five judges of relevant specialisation and two academic lawyers specialised in the relevant field of law.

3. With a view to being included in the composition of an evaluation commission, the Training Commission shall, not earlier than four days prior to holding the written examination, propose candidacies for 10 judges for each specialisation who have received high or good grade based on the last results of evaluation, given their performance is evaluated, provided that these judges have given their consent, whereas the Authorised Body shall propose candidacies of at least four academic lawyers specialised in the relevant field of law, provided that these lawyers have given their consent. The academic lawyers proposed by the Authorised Body may not be judges.

4. The members of the Supreme Judicial Council, Chairperson of the Court of Cassation, chairpersons of the chambers of the Court of Cassation and members of the commissions of the General Assembly may not be included in the composition of an evaluation commission.

5. Members of the evaluation commissions shall be elected, by drawing lots, from

among the specified 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. An evaluation commission shall carry out its activities confidentially. The Supreme Judicial Council shall define the details necessary for a commission to carry out its activities confidentially. The names of members of the evaluation commission shall not be subject to publication prior to publication of the results of the examination.

7. The Judicial Department shall pay compensation to a member of an evaluation commission in the amount and under the procedure prescribed by the Government.

8. Where a member of an evaluation commission is aware of circumstances that may give rise to a reasonable doubt as to his or her impartiality or that of another member of an evaluation commission, he or she shall be obliged to immediately inform in writing thereon the Training Commission or the Authorised Body, respectively, and the Supreme Judicial Council.

9. The Supreme Judicial Council shall, at its own initiative and upon recommendation of the Training Commission or the Authorised Body, terminate the powers of the relevant member of an evaluation commission, where the impartiality of the member of the evaluation commission may give rise to a reasonable doubt in the eyes of an impartial observer.

10. The powers of a judge member of an evaluation commission shall discontinue where his or her powers of a judge have been discontinued or terminated or suspended.

11. In the case of early termination or discontinuation of the powers of a member of an evaluation commission, the new member shall be appointed under the general procedure.

12. The chairperson of an evaluation commission shall be elected by majority of votes of the members from among the members of the commission.

13. The activities of an evaluation commission shall discontinue following the expiry of the time limit for summarisation of the results of the written examination.

(Article 104 supplemented by HO-197-N of 25 March 2020)

Article 105. Evaluation of the results of written examination for qualification

1. The written tasks shall be evaluated based on an evaluation scale complying with the criteria for evaluation prescribed by the Supreme Judicial Council.

2. All members of the evaluation commission shall be obliged to check all the papers of the written examination. Checking shall be carried out under the procedure prescribed by the Supreme Judicial Council.

3. The written examination tasks of contenders shall be provided to the evaluation commission anonymously — in coded (depersonalised) form. The members of the evaluation commission must be provided with the evaluation scale corresponding to evaluation standards and with guiding sample answers and in case of test tasks, proposed correct answers to the tasks. Members of the evaluation commission must not discuss, during evaluation, the grades granted to written examination tasks and the justifications therefor. When evaluating the written

examination tasks, the members of the commission shall take into account the evaluation standards prescribed by the Supreme Judicial Council.

4. Following the publication of the results of the written examination and upon the application of a person having taken the examination, a copy of his or her written paper shall be provided to him or her immediately but not later than on the day following the day of submission of the application.

5. The written examination and summarisation of the results thereof must be carried out within one month following the end of the time limit for accepting the applications but not later than before 1 December.

(Article 105 edited by HO-197-N of 25 March 2020)

Article 105.1. Appealing against the results of written examination

1. The results of the written examination may be appealed against to the Appeals Commission within a period of 15 days following the publication thereof.

2. An Appeals Commission with relevant specialisation shall be formed within a period of five days following the receipt of the first appeal against the results of the examination conducted for the specialisation concerned, which shall be composed of two judges and one academic lawyer who shall be selected, by drawing of lots, from among five academic lawyer candidates for the given specialisation proposed by the Training Commission and at least three academic lawyer candidates specialised in relevant field of law and proposed by the Authorised Body, upon their consent. Members of the evaluation commission may not be included in the composition of the Appeals Commission.

3. The provisions prescribed by Article 104 of this Code shall apply to the procedure for being included in the composition of the Appeals Commission, carrying out the activities of the Commission, that for remuneration of the members of the Commission, termination of the powers thereof, as well as termination of the activities of the Commission, whereas the provisions prescribed by Article 105 shall apply to the review of the results of appeal.

4. The Appeals Commission shall examine the appeal and render a decision thereon within a period of five days following the expiry of the time limit prescribed for appeal. The Appeals Commission may reject the appeal filed against the results of the examination or grant the appeal partially or in full.

5. The results of written examination may be appealed against, through judicial procedure, on the ground of procedural violations, where they have been appealed against to the Appeals Commission.

(Article 105.1 supplemented by HO-197-N of 25 March 2020)

(Pursuant to part 17 of Article 58 of the Law HO-197-N of 25 March 2020 the restriction referred to in part 5 of this Article shall not extend to relations pertaining to appealing, through judicial procedure, against the results of written examination conducted prior to the entry into force of the Law HO-197-N of 25 March 2020 for being included in the list of contenders of judge candidates.)

Article 106. Procedure for including persons holding academic degrees in the field of law in the list of contenders for judge candidates

1. Persons holding an academic degree in the field of law and having taught law at a higher educational institution and/or the “Academy of Justice” State Non-Commercial Organisation, “School of Advocates of the Republic of Armenia” Foundation or having carried out scientific work at a scientific institution for at least five years during the last ten years (hereinafter referred to as "contender holding an academic degree"), who comply with the requirements prescribed by part 1 of Article 97 of this Code, shall have the right to submit an application to the Supreme Judicial Council in order to be included in the list of contenders for judge candidates.

2. A contender holding an academic degree shall submit the application for being included in the list of contenders for judge candidates within the time limits specified in the announcement made for the purpose of completion of the list of judge candidates.

3. The documents provided for by Article 98 of this Code, document certifying the existence of an academic degree, as well as the list of scientific works and publications, shall be attached to the application.

4. The application of a contender holding an academic degree shall be checked as prescribed by Article 99 of this Code.

5. A contender holding an academic degree shall undergo the stage of interview of the qualification check under the procedure prescribed by this Code.

(Article 106 amended by HO-197-N of 25 March 2020)

Article 107. Preparing materials for holding an interview

1. Following the publication of the results of appealing against, and in case of absence of an appeal — following the expiry of the time limit of appealing against, the Judicial Department shall submit the single completed list to the Supreme Judicial Council for the purpose of holding an interview.

1.1. The Judicial Department shall, while submitting the single completed list to the Supreme Judicial Council, also submit to the Commission for Prevention of Corruption the completed questionnaires on integrity of contenders included in the single completed list for the purpose of receiving an advisory opinion within a period of one month.

2. The single completed list shall be composed of:

(1) 50% of the number of candidates required to fill the relevant specialization section of the list of candidates for judges based on the total results of the written examination but not less than by 5 per cent, except where there is not enough number of contenders who have obtained the required score; and; (2) the list of contenders holding academic degrees.

3. All contenders with equal passing scores from the written examination shall be included in the complete list.

4. The Judicial Department shall publish the complete list of contenders submitted to the Supreme Judicial Council on the official website for public notifications and on the official website of the judiciary. Information regarding the education and professional work experience of each contender shall also be published together with the list of contenders.

5. State and local self-government bodies and officials possessing information with

regard to any given contender, that gives rise to a doubt as to whether that person has the skills and qualities necessary for acting effectively in the office of a judge, shall be obliged to inform in writing the Supreme Judicial Council thereon within two weeks following the day of publication of the complete list of contenders. State bodies and officials shall also be obliged to provide the specified information at the request of the Supreme Judicial Council.

6. Anyone who possesses documented information with regard to any given contender for a judge candidate, that gives rise to a doubt as to whether that person has the skills and qualities necessary for acting effectively in the office of a judge, may inform the Supreme Judicial Council thereon within two weeks following the day of publication of the list of contenders.

7. A contender shall, within two weeks following the day of publication of the list, have the right to submit to the Supreme Judicial Council copies of not more than five written works (answers to statements of claim, motions or other procedural documents, as well as research papers or other works) in Armenian, or accompanied by Armenian translations, which he or she has authored and which may attest to his or her professional work experience and contribute, during the interview, to the evaluation of his or her skills and qualities necessary for acting effectively in the office of a judge.

8. The Judicial Department shall, within a period of one month following the day of forwarding to the Supreme Judicial Council the single completed list, submit to the Supreme Judicial Council the personal file of each contender, which must include the documents attached by the contender to the application for participation in the qualification check, the scores obtained as a result of the written examination, the advisory opinion on integrity submitted by the Commission for Prevention of Corruption and the information received as prescribed by this Article.

9. A person participating in the interview shall have the right to apply and, within two working days following the day of submission of the application but not later than the day preceding the interview, become familiar with his or her personal file available at the Supreme Judicial Council.

(Article 107 amended and supplemented by HO-197-N of 25 March 2020)

Article 108. Holding an interview

1. The interview shall be aimed at revealing the skills and qualities necessary for a contender to act effectively in the office of a judge. The necessary skills and qualities shall be revealed through evaluation of the professional work experience of the contender, his or her motivation to become a judge and expectations, awareness of the requirements of the fundamental legal acts concerning the status of a judge, his or her personal qualities (in particular, self-control, integrity, conduct, moderate use of reputation (influence), sense of responsibility, listening skills, communication skills, sense of justice, analytical skills and other non-professional qualities necessary for the activity of a judge). The interview shall be held by the Supreme Judicial Council, wherein a psychologist may also participate with the right to an advisory vote.

1.1. Contenders shall undergo psychological testing within a period of five days prior to the interview. The psychological test shall be compiled for the purpose of evaluating the qualities provided for by part 1 of this Article, and the result thereof shall be obtained according to a priorly developed electronic system. The Supreme Judicial Council shall approve the criteria of and procedure for the conduct of psychological testing, on the basis of which the Authorised Body

shall ensure the conditions required for the conduct of testing The results of the test shall be advisory and shall be provided to the contender and the Supreme Judicial Council.

2. The interview shall be comprised of two stages:

(1) study of the personal file, including the advisory opinion provided by the Commission for Prevention of Corruption and the past professional experience of each contender, for the purpose of presenting whereof one of the members of the Supreme Judicial Council shall act as a rapporteur. The contender shall have the right to make clarifications on the information contained in his or her personal file. For the purpose of evaluating other personal skills and qualities necessary for acting effectively in the office of a judge, members of the Supreme Judicial Council may ask the contender questions with regard to the qualities specified in part 1 of this Article and, if the contender is a doctor of philosophy, also with regard to the field of his or her research activities;

(2) the contender's analysis and delivery of his or her position with respect to a hypothetical problem related to the rules of conduct of a judge in order to evaluate the fundamental rules of conduct of a judge, the requirements for a judge and other personal qualities important for acting as a judge.

3. For persons holding an academic degree in the field of law, the interview shall, besides the aforementioned two stages, also include the contender's analysis and delivery of his or her position with regard to a brief legal issue (law or other legal act, including hypothetical legal norm, position expressed in a judicial act, legal opinions expressed in legal theory, etc.) in the relevant field of specialisation, for the purpose of evaluating his or her skills of quickly handling spontaneous situations, self-control, conduct, communication skills, analytical skills, other skills and qualities necessary for acting effectively in the office of a judge.

4. The questions provided for by point 2 of part 2 and part 3 of this Article shall be selected by the contender by drawing lots from questions prepared beforehand. A contender shall be given thirty minutes to prepare for an answer.

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 qualities subject to evaluation, prescribed by this Article and the decision of the Supreme Judicial Council, shall be specified. Each member of the Supreme Judicial Council shall, based on his or her inner conviction, evaluate each contender by specifying his or her considerations on the qualities being evaluated.

7. After completion of the interviews with all the contenders, the members of the Supreme Judicial Council shall hold a final discussion on the results of the interviews, which shall be followed by the vote.

8. While conducting the voting for drawing up the list of contenders for judge candidates, the members of the Supreme Judicial Council shall take into account the results of written examination for qualification and of the interview, the results of the psychological test and the advisory opinion on integrity of the contender, provided by the Commission for Prevention of Corruption.

(Article 108 supplemented by HO-197-N of 25 March 2020)

(Pursuant to part 4 of Article 58 of the Law HO-197-N of 25 March 2020 Article 108 shall, as to the psychological testing, enter into force in accordance with the procedure approved by the Supreme Judicial Council for psychological testing, from the moment of creating the required conditions prescribed by part 6 of Article 58 of the Law HO-197-N of 25 March 2020.)

Article 109. Compiling and approving the list of contenders for judge candidates

1. After completion of the final discussion on the results of the interview at the Supreme Judicial Council, an open voting shall be held in deliberation room, during which each member of the Supreme Judicial Council shall, based on his or her inner conviction, vote "for" or "against".

2. ***(Part repealed by HO-197-N of 25 March 2020)***

3. Where the list of candidates for judges is replenished without limiting the number of vacancies, when voting for each section of specialization, the number of votes to which each member of the Supreme Judicial Council is entitled shall be equal to the number required for the completion of candidates. Where the list of candidates for judges is replenished based on the fixed number of vacancies, if the number of candidates is equal to or more than the required number, the number of votes to which each member of the Supreme Judicial Council is entitled at voting for each section of specialization shall be equal to the number required for the replenishment, or to the number of contenders, if their number is less than required.

4 Based on the results of the vote held for each section of specialization, the Supreme Judicial Council shall compile the list of candidates subject to promotion to judge, and in case of anti-corruption specialization, list with a sub-sectional breakdown, which shall include:

1) where the list of candidates for judges is replenished based on the fixed number of vacancies, a maximum number equal to the required number of candidates who have received the maximum number of "for" votes, but not less than the candidates who received at least half of the "for" of the total number of members of the Supreme Judicial Council.

2) where the list of candidates for judges is replenished without limiting the number of vacancies, candidates who received at least more than half of "for" votes of the total number of members of the Supreme Judicial Council.5. Where the number of judges of either sex is less than twenty-five per cent of the total number of judges, up to fifty per cent of the places in the list of contenders for judge candidates shall be reserved to the persons of the sex concerned who have received the maximum number of "for" votes, but not less than at least more than half of those of all the members of the Supreme Judicial Council.

6. Where it is impossible to determine the elected candidates due to the equality of votes, an additional vote shall be held, wherein candidates having received the minimum number of "for" votes, but not less than at least more than half of those of all the members of the Supreme Judicial Council, shall participate.

7. During the additional vote, each member of the Supreme Judicial Council shall have the right to one vote. ***(Sentence deleted by HO-197-N of 25 March 2020)***

8. Based on the results of the additional vote, the candidates having received the greatest number of votes shall be deemed to be elected. In the case of equal votes, preference shall be given to the candidate having a longer professional work experience, and in the case of an equal professional experience — to the eldest candidate.

9. The Supreme Judicial Council shall, based on the results of the qualification check, compile and approve the list of contenders for judge candidates and submit it to the Academy of Justice for the purpose of organising their training.

10. Where following the compilation of the list provided for by part 4 of this Article criminal prosecution is instituted against a person included in the list or he or she is declared bankrupt, his or her training at the Academy of Justice shall be suspended until the termination of the criminal prosecution on an acquitting ground or until the completion of the bankruptcy proceedings, respectively.

11. For contenders holding an academic degree, training at the Academy of Justice aimed at development of practical skills shall be organised as prescribed by law.

(Article 109 amended by HO-197-N of 25 March 2020)

Article 110. Approval of the list of judge candidates

1. The Supreme Judicial Council shall include the contenders for judge candidates, having completed the training at the Academy of Justice, in the list of judge candidates according to the relevant specialisations.

Article 111. Including a former judge, a former judge of the Constitutional Court of the Republic of Armenia and of the international court of which the Republic of Armenia is a member, a member of the Supreme Judicial Council in the list of judge candidates

1. A person having held, for at least three years within the last 10 years, the office of a judge with relevant specialisation, as well as of a judge of the Constitutional Court, a judge of the international court of which the Republic of Armenia is a member, a member of the Supreme Judicial Council (hereinafter referred to as “former judge”), who complies with the requirements prescribed by part 1 of Article 97 of this Code, shall have the right to be included in the list of judge candidates.

2. The former judge may not be included in the list of judge candidates where the powers thereof have been terminated on the ground of commission of a disciplinary violation or the powers thereof have been discontinued on the ground of entry into legal force of a criminal judgment of conviction rendered against him or her or termination of the criminal prosecution on a non-acquittal ground.

3. With a view to being included in the list of judge candidates, the former judge shall file a written application to the Supreme Judicial Council, whereto the documents provided for by part 2 of Article 98 of this Code shall be attached, whereas the person having held the position of a judge of the Constitutional Court and that of an international court of which the Republic of Armenia is a member — also the documents on having previously held the mentioned position.

4. The application of the former judge shall be checked as prescribed by Article 99 of this Code.

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

6. For the purpose of refilling the corresponding section of the list of judge candidates the Supreme Judicial Council shall hold an open voting in deliberation room, under the procedure prescribed by this Code for drawing up and approving the list of contenders for judge candidates.

(Article 111 amended by HO-197-N of 25 March 2020)

Article 112. 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 and the conviction has not been expired or cancelled;

(2) he or she has been convicted of an intentional crime or has served a custodial punishment regardless of whether or not the conviction has expired or cancelled;

(3) he or she has a physical impairment or suffers a disease hindering his or her appointment to the position of a judge;

(4) he has not undergone mandatory military service or alternative service and has not been exempt from mandatory military service as prescribed by law (where the person is male);

(5) he or she has been declared as having no active legal capacity, having limited active legal capacity, missing or bankrupt by a civil judgment of the court having entered into legal force and the bankruptcy proceedings yet has not completed;

(6) criminal prosecution is initiated against him or her.

1.1. The following person may not be appointed a judge of an anti-corruption court:

1) to whom the restrictions provided for in paragraph 1 of this article apply;

2) who, being a judge, prosecutor, investigator, detective, lawyer or former judge, prosecutor, investigator, detective, lawyer, has received a severe reprimand or a more severe disciplinary sanction prescribed by law during the last three years, irrespective of the fact that the disciplinary sanction has been revoked or waived in the prescribed manner.

1.2. The restrictions set forth in part 1.1 of this Article shall also apply to candidates to judges as well as candidates for judges of the Anti-Corruption Chamber of the Court of Cassation for responsible for the review of judicial acts on corruption crimes subject to appeal in the Criminal Court of Appeal, and the review of judicial acts on anti-corruption civil cases subject to appeal in the Civil Court of Appeal.

2. The list of physical impairments and diseases hindering the appointment to the position of a judge shall be established by the Government.

Article 113. Grounds for removal of a person from the lists of contenders for judge candidates and of judge candidates

1. A person included in the list of contenders for judge candidates shall be removed from the list where:

(1) he or she has been included in the list of judge candidates;

- (2) he or she has filed an application to that regard;
 - (3) he or she has attained the age of 63;
 - (4) a judicial act having entered into legal force has established that he or she was included in the list in violation of the requirements of this Code;
 - (5) a civil judgment of the court, declaring him or her as having no active legal capacity, having limited active legal capacity, missing or dead, has entered into legal force;
 - (6) a criminal judgment of conviction against him or her has entered into legal force or, the criminal prosecution has been terminated on non-acquittal grounds;
 - (7) he or she has lost the citizenship of the Republic of Armenia or has acquired the citizenship of another State;
 - (8) a physical impairment or disease hindering the appointment to the position of a judge has become known or he or she has refused to fulfil the requirement of undergoing the medical examination provided for by this Code;
 - (9) he or she has, without valid reason, missed at least five per cent of the provided educational courses during the study at the Academy of Justice;
 - (10) he or she has missed at least 50 per cent of the provided educational courses during the study at the Academy of Justice, except for the cases of granting a deferral;
 - (11) the result of the subject-related course taught during the study at the Academy of Justice has been evaluated as negative or, he or she has failed to undergo the probation period;
 - (12) there are other grounds provided for by this Code.
2. 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 63;
 - (4) a judicial act having entered into legal force has established that he or she was included in the list in violation of the requirements of this Code;
 - (5) he or she has failed, without valid reason, to undergo mandatory training;
 - (6) a civil judgment of the court declaring him or her as having no active legal capacity, having limited active legal capacity, missing or dead has entered into legal force;
 - (7) the criminal judgment of conviction against him or her has entered into legal force or, the criminal prosecution has been terminated on non-acquittal grounds;
 - (8) he or she has lost the citizenship of the Republic of Armenia or has acquired the citizenship of another State;
 - (9) a physical impairment or disease hindering the appointment to the position of a judge has become known or he or she has refused to fulfil the requirement of undergoing the medical examination provided for by this Code;

(10) he or she has not engaged in the activities requiring professional qualification of a lawyer for more than two consecutive months following the graduation from the Academy of Justice or for more than three months in a calendar year or has not applied for being employed in the staff of courts. The restrictions specified in this point shall not extend to the cases of not being engaged in the activities requiring professional qualification of a lawyer prescribed by law for the reason of being on pregnancy and child delivery leave, being on leave for adopting a new-born child or for having been designated as a guardian of a new-born child;

(11) there are other grounds provided for by this Code.

3. The Judicial Department or the Academy of Justice, respectively, shall, within a period of three days after any ground provided for by parts 1 and 2 of this Article arises, inform the Supreme Judicial Council thereon.

4. In case of prima facie existence of a physical impairment or disease hindering the appointment to the position of a judge, the Chairperson of the Supreme Judicial Council shall file an application to the competent body in order to organise the medical examination of a contender for the judge candidate or of a judge candidate. If the person refuses to undergo the medical examination or the results of examination establish that there is a physical impairment or disease hindering the appointment to the position of a judge, the Chairperson of the Supreme Judicial Council shall convene a session of the Supreme Judicial Council.

5. Where based on the results of open voting held in deliberation room the Supreme Judicial Council considers that one of the grounds provided for by this Article exists, the person concerned shall be removed from relevant list.

6. Removing a person from the list shall not prevent him or her from repeatedly applying, as prescribed by this Code, for being included in the list.

7. The decision on removing a person from relevant list shall be revised on the grounds and under the procedure provided for by this Code for revision of decisions on imposing disciplinary action against a judge.

(Article 113 amended by HO-197-N of 25 March 2020)

Article 114. Grounds on which a vacant position of a judge of a Court of First Instance may open up

1. A vacant position of a judge of a Court of First Instance may open up where:

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

2. In the cases provided for by points 2 and 3 of part 1 of this Article a vacant position shall not open up where there are reserve judges in relevant court who possess specialisation corresponding to the number of vacant positions.

Article 115. Procedure for selecting a candidate for the vacant position of a judge of a Court of First Instance to be proposed to the President of the Republic for appointment

1. In case a vacant position of a judge of a Court of First Instance opens up, the

Supreme Judicial Council shall, when selecting a candidate aimed at proposing him or her to the appointment by the President of the Republic, make a proposal in the following sequence:

(1) first, to the reserve judge of another court who possesses specialisation corresponding to the vacant position. In case of several persons, preference shall be given first to the judge of another Court of First Instance with longer experience, then — to the judge of a Court of Appeal with longer experience, then — to the judge of the Court of Cassation with longer experience;

(2) second, to the judge of relevant specialisation of a Court of Appeal or the Court of Cassation, having 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 a Court of First Instance. In case of several applicants, preference shall be given to the judge with the longest experience

(3) third, to former judges included in the list of judge candidates. A proposal shall be made to the mentioned persons even where they are included in the promotion list of judges. In case of several persons, preference shall be given to the former judge with longer experience;

4) fourth, to contenders who earlier graduated from the Academy of Justice in the relevant specialization section of the list of candidates, , by decreasing order of total scores from the Academy of Justice. In case of several persons, preference shall be given to the eldest person;

5) fifth, to contenders with academic degrees included in the list of candidates for judges. In case of several persons, preference shall be given to the eldest person.² In case a vacant position opens up at a Court of First Instance, the Supreme Judicial Council shall not make, when selecting a candidate to be proposed to the President of the Republic for appointment, a proposal to the candidate against whom criminal prosecution has been initiated.

3. The Supreme Judicial Council shall make the written proposal by the address of electronic mail within a period of three days following the day the relevant ground arises, whereas in case of impossibility thereof — by postal delivery.

Article 116. Procedure for accepting the proposal by the candidate having received a proposal for a vacant position of a judge of a Court of First Instance and consequences of not accepting it

1. The candidate having received a proposal for a vacant position of a judge of a Court of First Instance shall, within a period of one week upon receipt of the notification, be obliged to submit to the Supreme Judicial Council his or her written consent for the appointment or express his or her disagreement therewith. The consent not given within the given time limit shall be considered as disagreement.

2. In the cases provided for by point 1 of part 1 of Article 115 of this Code, the disagreement of the judge of a specialised Court of First Instance or a Court of Appeal or the Court of Cassation shall not terminate his or her status as a reserve judge , while it shall lift the status for judges of a Court of First Instance of general jurisdiction.

3. In the case prescribed by point 2 of part 1 of Article 115 of this Code, the disagreement of a person shall not cause any negative consequences for him or her.

4. In the cases prescribed by points 3 and 5 of part 1 of Article 115 of this Code, the disagreement of the candidate shall lead to his or her removal from the list of judge candidates,

except for the case of refusal for the reason of being on pregnancy and child delivery leave, being on leave for adopting a new-born child or for having been designated as a guardian of a new-born child.

5. In the case prescribed by point 4 of part 1 of Article 115 of this Code, the disagreement of the candidate shall lead to his or her removal from the list of judge candidates, except for the case of refusal for the reason of being on pregnancy and child delivery leave, being on leave for adopting a new-born child or for having been designated as a guardian of a new-born child, as well as except where there are graduates of the same year possessing specialisation corresponding to the vacant position at the Academy of Justice the total scores whereof are less than the scores gained by him or her.

6. Where in the case prescribed by point 4 of part 1 of Article 115 of this Code, the candidate on the list, having gained the minimum total scores for the current year, is removed from the list due to disagreement or his or her refusal for the reason of being on pregnancy and child delivery leave, being on leave for adopting a new-born child or for having been designated as a guardian of a new-born child, the Supreme Judicial Council shall repeatedly make its proposal to the candidate having gained the next minimum total scores. Where he or she must be also removed from the list due to disagreement, the proposals made as prescribed by this part shall be repeatedly made as long as nobody accepts the proposal, or the list of specialisation corresponding to the vacant position of graduates of the Academy of Justice for the current year does not expire, except for the graduates having refused for the reason of being on pregnancy and child delivery leave, being on leave for adopting a new-born child or for having been designated as a guardian of a new-born child.

(Article 116 amended by HO-197-N of 25 March 2020)

Article 117. Procedure for appointing a judge

1. In case the candidate gives his or her consent, the Supreme Judicial Council shall propose his or her candidacy to the President of the Republic by introducing also his or her personal file, the documents submitted thereby in case he or she is not a judge and those acquired as a result of their check.

2. The President of the Republic shall, within a period of three days upon receipt of the proposal, adopt a decree on appointing the proposed candidate or return to the Supreme Judicial Council the proposal with the objections therein.

3. In case the President of the Republic returns to the Supreme Judicial Council the proposal with the objections therein, the Supreme Judicial Council shall be obliged to convene a session.

4. The Supreme Judicial Council shall consider the issue of not accepting the objection of the President of the Republic and make a decision by open voting held in deliberation room. Where the Supreme Judicial Council does not accept the objection of the President of the Republic, the President of the Republic shall, within a period of three days, adopt a decree on appointing the proposed candidate or apply to the Constitutional Court.

5. Where the Constitutional Court decides that the proposal complies with the Constitution, the President of the Republic shall adopt, within a period of three days, a decree on appointing the proposed candidate.

6. Where the President of the Republic fails to carry out, within a period of three days,

the actions specified in parts 2, 4 or 5 of this Article, the decree of the President of the Republic on appointing the relevant candidate shall enter into force by virtue of law, whereon the Chairperson of the Supreme Judicial Council shall, within a period of three days, publish an announcement on the official website of the judiciary.

(Article 117 amended by HO-197-N of 25 March 2020)

Article 118. Assuming the office by the person appointed to the position of a judge

1. The person appointed to the position of a judge shall, not later than within a period of one month following the date of appointment, give an oath before the President of the Republic, and in case of having been appointed by virtue of law — 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 the duties of a judge in compliance with the Constitution and laws of the Republic of Armenia, by ensuring the rule of law and upholding the high reputation of the judiciary”.

2. The oath shall be taken in a solemn ceremony by ensuring public accessibility, where each judge shall, on an individual basis, read out the text of the oath, whereafter the judge shall sign the text read out thereby.

3. The person shall assume the office of a judge upon signing the text of the oath. The decree of the President of the Republic shall be published on the official website of the President of the Republic. The judge appointed by virtue of law shall be considered as having assumed his or her powers upon the publication of the announcement provided for by part 6 of Article 117 of this Code.

Article 119. Procedure for appointing a judge of another Court of First Instance to the vacant position of a judge of a Court of First Instance

1. In exceptional cases, including in the cases of existence of family and personal circumstances hindering to hold the office, the judge of a Court of First Instance shall have the right to apply to the Supreme Judicial Council out of the turn specified by Article 115 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 a vacant position of a judge of relevant specialisation opens up at the Court of First Instance concerned.

2. The judge submitting the application must indicate in the application justified reasons for the transfer. The Supreme Judicial Council shall consider the application of the judge at its session and, if necessary, invite the judge to an interview. The Supreme Judicial Council shall hold open voting in deliberation room. If more than half of the members of the Supreme Judicial Council have voted for the transfer, the relevant candidate shall be proposed to the President of the Republic and shall be appointed as prescribed by Article 117 of this Code.

3. The reasoned application of relevant judge shall also be submitted to the President of the Republic.

(Article 119 amended by HO-197-N of 25 March 2020)

Article 120. Procedure for exchanging the positions of judges of different Courts of First Instance

1. Judges of the same specialisation 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 provide reasoning to their applications. The justified reasons for exchanging relevant positions of judges must be indicated in the application.

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 by open voting in deliberation room. Where more than half of the members of the Supreme Judicial Council have voted for the exchange, the relevant candidates shall be proposed to the President of the Republic and shall be appointed as prescribed by Article 117 of this Code.

4. The reasoned applications of relevant judges shall be also submitted to the President of the Republic.

(Article 120 amended by HO-197-N of 25 March 2020)

Article 121. Procedure for appointing the chairperson of a Court of First Instance

1. The Judicial Department shall, not earlier than two months and not later than one month before the expiry of the term of office of the chairperson of the court, and within a period of one week following the day when a vacant position of a chairperson of a Court of First Instance opens up on other grounds, draw up and submit to the Supreme Judicial Council the list of all judges of the Court of First Instance concerned who possess not less than three years of experience in the position of a judge, have not been imposed a disciplinary penalty, have not been appointed as a chairperson of the court concerned during the last three years and are not members of the Supreme Judicial Council.

2. In case the number of judges possessing not less than three years of experience in the position of a judge is less than three, the requirement prescribed for a judge as to possessing not less than three years of experience shall not apply in the course of drawing up the list provided for by part 1 of this Article.

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

4. The Supreme Judicial Council shall, in the course of considering the issue of making a proposal related to the appointment of the chairperson of a Court of First Instance, take into account features characterising the skills and qualities necessary for acting effectively in the office of a chairperson of the court, including the following:

- (1) professional reputation of a judge;
- (2) attitude towards his or her colleagues during performance of duties of a judge;
- (3) organisational and managerial abilities of a judge, in case of experience in managerial activities — other features characterising the skills and qualities displayed by the

judge in the given activities.

5. The Supreme Judicial Council shall hold open voting where each member shall have only one vote. *(Sentence deleted by HO-197-N of 25 March 2020)*. Based on the voting results, the person having received the majority vote of all the members of the Council shall be proposed to the President of the Republic.

6. The candidate for the chairperson of the court subject to appointment shall be proposed to the President of the Republic within a period of ten days following the date of expiry of the term of office of the chairperson of the court, whereas in case the position remains vacant on other grounds — within a period of one month.

7. The candidate for the chairperson of the court subject to appointment shall be proposed to the President of the Republic and shall be appointed as prescribed by Article 117 of this Code.

(Article 121 amended by HO-197-N of 25 March 2020)

CHAPTER 17

DRAWING UP AND APPROVING THE PROMOTION LISTS OF JUDGE CANDIDATES. THE PROCEDURE FOR THE APPOINTMENT OF JUDGES AT THE COURTS OF APPEAL AND THE COURT OF CASSATION, CHAIRPERSONS OF THE COURTS OF APPEAL, CHAIRPERSONS OF THE CHAMBERS OF THE COURT OF CASSATION AND THAT FOR THE ELECTION OF THE CHAIRPERSON OF THE COURT OF CASSATION

Article 122. Promotion lists of judge candidates

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

2. The promotion lists of judge candidates shall be as follows:

(1) the promotion list of judge candidates to be appointed to the position of a judge at the courts of appeal with relevant sections of criminal, civil and administrative specialisations;

(2) the promotion list of judge candidates to be appointed to the position of a judge at the Court of Cassation.

Article 123. Preparation of replenishment of the promotion list of judge candidates to be appointed to the position of a judge at the courts of appeal

1. The Supreme Judicial Council shall decide on the need to replenish the list of judges to be promoted to judges in the courts of appeal taking into account, inter alia, the number of candidates in the list of judges to be promoted to a judge in the Court of Appeal, the number of available and projected vacancies in the Court of Appeal and other circumstances which necessitate or may necessitate replenishment of the promotion list of judges. Replenishment may be based on a fixed number of vacancies in the cases defined in paragraph 2 hereof, or without limitation of the number vacancies.

2. Where the number of judge candidates in the promotion list of judges under the sections of criminal, civil and administrative specialization's, respectively, does not exceed the projected number of vacant positions at the Courts of Appeal for the next two years, the Supreme Judicial Council shall make a decision on the need of for replenishment, by the calculated number, the section of respective specialization of the promotion list of judges to be appointed to the position of a judge at the courts of appeal. Persons included in the promotion list of judges to be appointed to the position of a judge at the courts of appeal that have not accepted the proposal for the appointment and have not been removed from the list of judge candidates on the grounds provided for by this Code, shall not be considered when calculating the respective number.

3. Based on the decision of the Supreme Judicial Council, an announcement shall be published on the official website for public notifications and on the official website of the judiciary, which must at least contain the time limits and venue for accepting applications. In case of filling vacancies by a fixed number, announcement shall specify the number of vacancies, according to the specialization sections of the list of candidates for judges. 4. is repealed 5. is repealed

6. The following persons may be included in the promotion list of judge candidates to be appointed to the position of a judge at the courts of appeal:

(1) a judge possessing professional work experience of at least three years in the position of a judge of relevant specialisation at a Court of First Instance against whom no disciplinary penalty in the form of reprimand or severe reprimand has been imposed;

(2) a former judge having held office during the last 10 years who possesses at least five years of experience as a judge.

(3) a person who:

a) holds an academic degree in the field of jurisprudence and has taught law at a higher educational institution or has carried out academic research at a scientific institution for at least 6 years during the last 10 years; or

b) has at least 8 years of professional experience in the last 10 years. 7. The person specified in points 2 and 3 of part 6 of this Article shall have the right to be included in the promotion list of judge candidates to be appointed to the position of a judge at the courts of appeal where he or she complies with the requirements prescribed by part 1 of Article 97 of this Code, and in case of the person specified in point 2 of part 6 of this Article the powers thereof have not been terminated on the ground of committal of a disciplinary violation or the powers thereof have not been discontinued on the ground of entry into legal force of the criminal judgment of conviction rendered against him or her or on the ground of termination of the criminal prosecution on a non-acquittal ground.

8. The persons specified in part 6 of this Article may, within the prescribed time limits, submit to the Supreme Judicial Council an application on being included in the promotion list of judge candidates.

9. The person specified in point 2 of part 6 of this Article shall attach to the application the documents provided for by part 2 of Article 98 of this Code, whereas the person having held the office of a judge of the Constitutional Court or that of an international court of which the Republic of Armenia is a member — also the documents on having previously worked in the specified position.

10. The persons specified in point 3 of part 6 of this Article shall attach to the application the documents provided for by part 2 of Article 98 of this Code, person specified in paragraph 3 "a" shall attach to the application the documents certifying the fact of possessing an

academic degree, as well as the list of scientific works and publications.

11. The application of the person specified in points 2 and 3 of part 6 of this Article shall be checked as prescribed by Article 99 of this Code.

12. The persons specified in points 2 and 3 of part 6 of this Article shall have the right to be included in the promotion list of judge candidates to be appointed to the position of a judge at the courts of appeal regardless of whether or not they are included in the list of judge candidates of a Court of First Instance.

(Article 123 amended by HO-197-N of 25 March 2020)

Article 124. Drawing up and approving the promotion list of judge candidates to be appointed to the position of a judge at the courts of appeal

1. Within a period of ten days following the expiry of the time limits for accepting applications, the Supreme Judicial Council shall study, at its session, the personal file of the candidate, whereas in case the candidate is not a judge — the documents submitted thereby and those acquired as a result of their check, and, if necessary, invite to an interview.

2. In the course of drawing up the promotion list of judge candidates the Supreme Judicial Council shall take into account the skills and qualities necessary for acting effectively in the office of a judge of a Court of Appeal, whereas in respect of a judge — also the results of performance evaluation thereof.

3. The Supreme Judicial Council shall hold open voting in deliberation room, during which each member of the Supreme Judicial Council shall, based on his or her inner conviction, vote “for” or “against”.

4. ***(Part repealed by HO-197-N of 25 March 2020)***

5.

5. Where the replenishment of the list of candidates for judges to be promoted is carried out without limiting the number of vacancies, the number of votes possessed by each member of the Supreme Judicial Council shall be equal to the number necessary to replenish the list. Where the list of candidates for judges is replenished based on the fixed number of vacancies, if the number of candidates is equal to or more than the required number, the number of votes to which each member of the Supreme Judicial Council is entitled at voting for each section of specialization shall be equal to the number required for the replenishment, or to the number of contenders, if their number is less than required.

6. Based on the results of the vote held for each section of specialization, the Supreme Judicial Council shall compile the list of candidates subject to promotion to a judge, which shall include:

1) where the list of candidates for judges is replenished based on the fixed number of vacancies, a maximum number equal to the required number of candidates who have received the maximum number of “for” votes, but not less than the candidates who received at least half of the “for” of the total number of members of the Supreme Judicial Council.

2) where the list of candidates for judges is replenished without limiting the number of

vacancies, candidates who received at least more than half of "for" votes of the total number of members of the Supreme Judicial Council. 7. Where it is impossible to determine the elected candidates due to a tie vote, an additional vote shall be held, wherein candidates having received the minimum, but not less than at least exceeding the half of "for" votes of the total number of members of the Supreme Judicial Council shall participate.

8. During the additional vote, each member of the Supreme Judicial Council shall have one vote. ***(Sentence deleted by HO-197-N of 25 March 2020)***

9. Based on the results of the additional vote, the candidates having received the greater number of votes shall be deemed to be elected. In case of a tie vote, preference shall be given to the candidate possessing longer professional work experience, whereas in case of an equal duration of experience — to the eldest candidate.

10. The Supreme Judicial Council shall whereas for the purpose of appointment to the position of a judge at the courts of appeal — within a period of two months following the publication of the announcement on the need for replenishment of relevant section of specialisation of the promotion list of judges, approve the promotion list of judge candidates drawn up on the basis of voting results.

11. The Supreme Judicial Council shall submit the list of persons included in the promotion list of judges to be appointed to the position of a judge at the courts of appeal, provided for by point 3 of part 6 of Article 123 of this Code, to the Academy of Justice for the purpose of arranging their study.

12. The criminal prosecution initiated against a person provided for by point 3 of part 6 of Article 123 of this Code or the fact of having been declared bankrupt thereby shall suspend his or her study at the Academy of Justice until termination of criminal prosecution upon grounds for acquittal or completion of bankruptcy proceedings, respectively.

13. In respect of the persons included in the promotion list of judges to be appointed to the position of a judge at the courts of appeal, provided for by point 3 of part 6 of Article 123 of this Code, a study on the development of practical skills shall be arranged, as prescribed by law, at the Academy of Justice.

(Article 124 amended by HO-197-N of 25 March 2020)

Article 125. Grounds for removal from the promotion list of judge candidates to be appointed to the position of a judge at the courts of appeal

1. The person included in the promotion list of judge candidates to be appointed to the position of a judge at the courts of appeal shall be removed from the list where:

- (1) he or she has been appointed to the position of a judge of a Court of Appeal;
- (2) he or she has filed an application to that regard;
- (3) he or she has attained the age of 63, except where the person is a judge;
- (4) a judicial act having entered into legal force has established that he or she was included in the list in violation of the requirements of this Code;
- (5) a civil judgment of the court declaring him or her as having no active legal capacity, having limited active legal capacity, missing or dead, has entered into legal force;

(6) a criminal judgment of conviction against him or her has entered into legal force, or the criminal prosecution has been terminated on non-acquittal grounds;

(7) he or she has lost the citizenship of the Republic of Armenia or has acquired the citizenship of another State;

(8) a physical impairment or disease hindering the appointment to the position of a judge became known, or he or she has refused to fulfil the requirement of undergoing the medical examination provided for by this Code;

(9) the Supreme Judicial Council has applied a reprimand or severe reprimand against him or her;

(10) his or her powers as a judge have terminated or discontinued;

(11) there are other grounds provided for by this Code.

2. The persons included in the promotion list of judge candidates to be appointed to the position of a judge at the courts of appeal, provided for by point 3 of part 6 of Article 123 of this Code, shall be removed from the list also in the case where they have failed to undergo, in a prescribed manner, the study on development of practical skills.

3. The person included in the promotion list of judge candidates to be appointed to the position of a judge at the courts of appeal shall be removed from the list as prescribed by Article 113 of this Code.

4. Removing a person from the list shall not prevent him or her from repeatedly applying, as prescribed by this Code, for being included in the list.

5. The decision on removing a person from relevant list shall be revised on the grounds and under the procedure provided for by this Code for revising the decisions on imposing disciplinary action against a judge.

Article 126. Grounds on which a vacant position of a judge of a Court of Appeal may open up

1. A vacant position of a judge of a Court of Appeal may open up where:

(1) a new Court of Appeal is established;

(2) powers of a judge in office are terminated or discontinued;

(3) the number of judges in the given court is increased.

2. In the cases provided for by points 2 and 3 of part 1 of this Article a vacant position shall not open up where there are reserve judges in the court who possess specialisation corresponding to the number of vacant positions.

Article 127. Procedure for selecting a judge candidate for the vacant position of a judge of a Court of Appeal to be purposed to the President of the Republic for

appointment

1. In case a vacant position of a judge opens up at a Court of Appeal, the Supreme Judicial Council shall, when selecting a candidate to be proposed to the President of the Republic for appointment, make the proposal in the following order:

(1) first, to the reserve judge in the Court of Cassation, who possesses specialisation corresponding to the vacant position. In case of several persons, preference shall be given to the eldest judge of the Court of Cassation;

(2) second, to the judge of relevant specialisation of the Court of Cassation, who has 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 a Court of Appeal. In case of several applicants, preference shall be given to the eldest person;

(3) third, to the person included earlier in the promotion list. In case of several persons, preference shall be given to the eldest person.

2. When selecting a candidate for the purpose of proposing him or her to the appointment by the President of the Republic, the Supreme Judicial Council shall not make the proposal to the person against whom a criminal prosecution is initiated.

3. The Supreme Judicial Council shall submit the written proposal by the address of electronic mail within a period of three days from the day the relevant ground arises, and in case of impossibility thereof — by postal delivery.

Article 128. Procedure for accepting the proposal by the candidate having received a proposal for a vacant position of a judge of a Court of Appeal and the consequences of not accepting it

1. The candidate having received a proposal for a vacant position of a judge of a Court of Appeal shall, within a period of one week upon receipt of the notification, be obliged to submit to the Supreme Judicial Council his or her written consent for the appointment or express his or her disagreement therewith. The consent not given within the given time limit shall be considered as disagreement.

2. The disagreement of a person provided for by point 1 of part 1 of Article 127 of this Code shall not terminate his or her status as a reserve judge.

3. In the case prescribed by point 2 of part 1 of Article 127 of this Code, the disagreement of a person shall not cause any negative consequences therefor.

4. In the cases prescribed by points 3 of part 1 of Article 127 of this Code, the disagreement of the candidate shall lead to his or her removal from the promotion list of judges, except for the case of refusal for the reason of being on pregnancy and child delivery leave, being on leave for adopting a new-born child or for having been designated as a guardian of a new-born child.

(Article 128 amended by HO-197-N of 25 March 2020)

Article 129. Procedure for appointing a judge candidate at a Court of Appeal

1. The Supreme Judicial Council shall propose the judge candidate of a Court of

Appeal to the President of the Republic and he or she shall be appointed as prescribed by Article 117 of this Code.

Article 130. Procedure for appointing the chairperson of a Court of Appeal

1. The chairperson of a Court of Appeal shall be appointed under the procedure prescribed by this Code for the appointment of the chairperson of a Court of First Instance.

Article 131. Grounds on which a vacant position of a judge of the Court of Cassation may open up

1. A vacant position of a judge of the Court of Cassation may open up where:

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

2. In the cases provided for by points 2 and 3 of part 1 of this Article a vacant position shall not open up where there are reserve judges in the court who possess specialisation corresponding to the number of vacant positions.

Article 132. Preparation of replenishment of the promotion list of judge candidates to be appointed to the position of a judge at the Court of Cassation

1. The Supreme Judicial Council shall, not earlier than two months and not later than one month before the expiry of the term of office of the Chairperson of the Court of Cassation, and within a period of one week following the day when a vacant position of a judge at the Court of Cassation opens up — publish an announcement on the official website for public notifications and on the official website of the judiciary, which must at least contain the time limits and venue for accepting applications, number of vacancies to be filled.

2. 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 may be included in the promotion list of judge candidates to be appointed to the position of a judge at the Court of Cassation:

(1) a judge of relevant specialisation who possesses at least 10 years of professional work experience, at least five years out of which— in the position of a judge;

(2) a former judge having held office during the last 10 years, who possesses at least 10 years of professional work experience, at least five years out of which— in the position of a judge;

(3) a person who:

a) holds an academic degree in the field of jurisprudence and has taught law at a higher educational institution or has carried out academic research at a scientific institution for at least 8 years during the last 10 years; or

b) has at least 10 years of professional experience in the last 120 years.

3. The person specified in points 2-3 of part 2 of this Article shall have the right to be included in the list of judge candidates where he or she complies with the requirements prescribed by part 1 of Article 97 of this Code, as well as in case of the person specified in point 2 of part 2 of this Article — the powers thereof have not been discontinued on the ground of entry into legal force of the criminal judgment of conviction rendered against him or her, or on the ground of termination of the criminal prosecution on a non-acquittal ground. To be appointed a judge of the Corruption Crimes Chamber in the Court of Cassation, a person specified in clause 1 of paragraph 2 hereof, shall be eligible to be included in the list of candidates for promotion to a judge in the judicial panel of the Corruption Crimes Chamber in the Court of Cassation, if he/she is a judge of criminal specialization or corruption crimes specialization of Anti-Corruption Court. In order to be appointed a judge of the Anti-Corruption Civil Cases Chamber in the Court of Cassation, a person specified in clause 1 of paragraph 2 hereof, shall be eligible to be included in the list of candidates for promotion to a judge in the judicial panel of the Anti-Corruption Civil Cases Chamber in the Court of Cassation, if he/she is a judge of civil specialization or anti-corruption civil cases specialization of Anti-Corruption Court.

4. The persons specified in part 2 of this Article may, within a period of two weeks following the publication of the announcement, submit to the Supreme Judicial Council an application on being included in the promotion list of judge candidates.

4.1. Person defined in clause 1 of paragraph 2 hereof, shall attach to the application completed integrity questionnaire

5. The person specified in point 2 of part 2 of this Article shall attach to the application the documents provided for by part 2 of Article 98 of this Code, whereas the person having held office of a judge of the Constitutional Court and that of an international court of which the Republic of Armenia is a member — also the documents on having previously worked in the specified position.

6. The persons specified in point 3 of part 2 of this Article shall attach to the application the documents provided for by part 2 of Article 98 of this Code, furthermore, person specified in paragraph 3 “a” shall attach to the application the documents certifying the fact of holding of an academic Degree in Law, as well as the list of scientific works and publications.

7. The application of the person specified in points 2-3 of part 2 of this Article shall be checked as prescribed by Article 99 of this Code.

8. In case at least three candidates do not apply for each vacant position as prescribed by this Code, an announcement shall be repeatedly made within a period of one week following the expiry of the time limit for submitting an application.

9. A person shall have the right to be included in the promotion list of judge candidates to be appointed to the position of a judge at the Court of Cassation regardless of whether or not he or she is included in another list of judge candidates.

(Article 132 edited by HO-197-N of 25 March 2020)

Article 133. Drawing up and approving the promotion list of judge candidates to be appointed to the position of a judge at the Court of Cassation and making a proposal

1. 1. Within a period of one working day following the expiry of the time limit for accepting applications, the Supreme Judicial Council shall submit the completed integrity questionnaire to the Anti-Corruption Commission with the view to receiving an advisory opinion within twenty days. Within five days following the expiry of the time limit for accepting applications, the Supreme Judicial Council shall review, at its session, the personal file of the candidate, whereas in case the candidate is not a judge — the documents submitted thereby and those acquired as a result of their check, and, if necessary, invite to an interview.

2. In the course of drawing up the promotion list of judge candidates, the Supreme Judicial Council shall take into account the skills and qualities advisory opinion on the integrity of the candidate rendered by the Anti-Corruption Commission, necessary for acting effectively in the office of a judge of the Court of Cassation, whereas in respect of a judge — also the results of performance evaluation thereof.

3. The Supreme Judicial Council shall hold open voting, during which each member of the Supreme Judicial Council shall, based on his or her inner conviction, vote “for” or “against”.

4. ***(Part repealed by HO-197-N of 25 March 2020)***

5. In the course of casting votes a member of the Supreme Judicial Council shall have three votes. ***(Sentence deleted by HO-197-N of 25 March 2020)***

6. Based on the voting results, three candidates having received the maximum number of votes of the members of the Supreme Judicial Council, but not less than at least exceeding the half of “for” votes of the total number of members of the Supreme Judicial Council shall be included in the promotion list.

7. Where it is impossible to determine the elected candidates due to a tie vote, an additional vote shall be held, wherein candidates having received the minimum number of votes, but not less than at least exceeding the half of “for” votes of the total number of members of the Supreme Judicial Council shall participate.

8. During the additional vote, each member of the Supreme Judicial Council shall have one vote. ***(Sentence deleted by HO-197-N of 25 March 2020)***

9. Based on the results of the additional vote, the candidates having received the greater number of votes shall be deemed to be elected. In case of a tie vote preference shall be given to the candidate possessing longer professional work experience, whereas in case of an equal duration of experience — to the eldest person.

10. As a result of the vote the Supreme Judicial Council shall draw up and approve the promotion list of three judge candidates to be appointed to the position of a judge at the Court of Cassation and shall propose the candidacies thereof, together with submitting their personal files, as well as in case the candidates are not judges — the documents submitted thereby and those acquired as a result of their check, to the National Assembly within a period of ten days following the date of expiry of the powers of a judge of the Court of Cassation, whereas in case the position remains vacant on other grounds — within a period of one month.

11. The National Assembly shall elect the proposed candidate and recommend to the President of the Republic as prescribed the Constitutional Law “Rules of Procedure of the National Assembly”.

12. The promotion list of judge candidates to be appointed to the position of a judge at

the Court of Cassation shall be repealed upon the appointment of a judge of the Court of Cassation or recognising by the Constitutional Court the proposal for the appointment thereof as contradicting the Constitution.

13. Repealing the promotion list of judge candidates to be appointed to the position of a judge at the Court of Cassation shall not prevent him or her from repeatedly applying, in a prescribed manner, for being included in the list.

(Article 133 amended by HO-197-N of 25 March 2020)

Article 134. Procedure for the appointment of the chairperson of a chamber of the Court of Cassation

1. The Judicial Department shall — not earlier than two months and not later than one month before the expiry of the term of office of the chairperson of a chamber of the Court of Cassation, and within a period of one week following the day when a vacant position of the chairperson of a chamber of the Court of Cassation opens up upon other grounds — draw up and submit to the Supreme Judicial Council the list of all judges of the given chamber who have at least three years of experience of a judge, have not been subjected to disciplinary penalties, have not held the office in capacity of the chairperson of the given chamber and are not members of the Supreme Judicial Council.

2. In case the number of judges having at least three years of experience of a judge is less than three, the requirement for a judge to have at least three years of experience shall not apply when drawing up the list provided for by part 1 of this Article.

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

4. The Supreme Judicial Council shall, in the course of discussing the issue of making a proposal related to the appointment of the chairperson of a chamber of the Court of Cassation, take into consideration features characterising the skills and qualities necessary for acting effectively in the office of the chairperson of the given chamber, including the following:

- (1) professional reputation of a judge;
- (2) attitude towards his or her colleagues during performance of duties of a judge;
- (3) organisational and managerial skills of a judge and other features characterising the skills and qualities displayed by the judge in the performance of managerial activities.

5. The Supreme Judicial Council shall hold open voting, during which each member of the Supreme Judicial Council shall, based on his or her inner conviction, vote "for" or "against".

6. ***(Part repealed by HO-197-N of 25 March 2020)***

7. When voting, each member of the Supreme Judicial Council shall have the right to one vote. ***(Sentence deleted by HO-197-N of 25 March 2020)***

8. Where, as a result of the vote, none of the candidates has received more than half of the votes, an additional vote shall be held with the participation of the two candidates having received the greatest number of votes.

9. Where, due to equal number of votes, it is impossible to determine the two candidates having received the greatest number of votes, preference shall be given to the

candidate with a longer experience as a judge, and in case of an equal experience — to the eldest candidate.

10. During the additional vote, each member of the Supreme Judicial Council shall have the right to one vote. During the additional vote, the candidate having received more than half of the number of votes shall be deemed elected. Where no one has received at least more than half of the "for" votes of the participants of the vote, a new election shall be held.

11. Based on the voting results, the candidate having received the majority of "for" votes of the total number of members of the Supreme Judicial Council shall be proposed to the President of the Republic.

12. The candidate subject to appointment to the position of the chairperson of a chamber of the Court of Cassation shall be proposed to the President of the Republic and shall be appointed as prescribed by Article 117 of this Code.

(Article 134 amended by HO-197-N of 25 March 2020)

Article 135. Procedure for proposing a candidate for the Chairperson of the Court of Cassation

1. The Judicial Department shall — not earlier than two months and not later than one month before the expiry of the term of office of the Chairperson of the Court of Cassation, and within a period of one week following the day when a vacant position of the Chairperson of the Court of Cassation opens up upon other grounds — draw up and submit to the Supreme Judicial Council the list of all judges of the Court of Cassation who have at least three years of experience of a judge in the given court, have not been subjected to disciplinary penalties, have not held the office in capacity of the Chairperson of the Court of Cassation and are not members of the Supreme Judicial Council.

2. In case the number of judges having at least three years of experience as a judge at the Court of Cassation is less than three, the requirement for a judge to have at least three years of experience at the Court of Cassation shall not apply when drawing up the list provided for by part 1 of this Article.

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

4. The Supreme Judicial Council shall, in the course of discussing the issue of making a proposal related to the appointment of the Chairperson of the Court of Cassation, take into consideration features characterising the skills and qualities necessary for acting effectively in the office of the Chairperson, including the following:

- (1) professional reputation of a judge;
- (2) attitude towards his or her colleagues during performance of duties as a judge;
- (3) organisational and managerial skills of a judge and other features characterising the skills and qualities displayed by the judge in the performance of managerial activities.

5. The Supreme Judicial Council shall hold open voting, during which each member of the Supreme Judicial Council shall, based on his or her inner conviction, vote "for" or "against".

6. ***(Part repealed by HO-197-N of 25 March 2020)***

7. When voting, each member of the Supreme Judicial Council shall have the right to one vote. ***(Sentence deleted by HO-197-N of 25 March 2020)***

8. Where, as a result of the vote, none of the candidates has received more than half of the votes, an additional vote shall be held with the participation of the two candidates having received the greatest number of votes.

9. Where, due to equal number of votes, it is impossible to determine the two candidates having received the greatest number of votes, preference shall be given to the candidate with a longer experience as a judge, and in case of an equal experience — to the eldest candidate.

10. During the additional vote, each member of the Supreme Judicial Council shall have the right to one vote. During the additional vote, the candidate having received more than half of the number of votes shall be deemed elected. Where no one has received at least more than half of the "for" votes of the participants of the vote, a new election shall be held.

11. Based on the voting results, the candidate having received the majority of "for" votes of the total number of members of the Supreme Judicial Council shall be proposed to the National Assembly.

12. Based on the voting results, the Supreme Judicial Council shall — within a period of ten days from the day of expiry of the term of office of the Chairperson of the Court of Cassation, and within a period of one month in case the position remains vacant upon other grounds — present the candidate for the Chairperson of the Court of Cassation, along with the personal file thereof, to the National Assembly.

13. The National Assembly shall elect the proposed candidate as prescribed by Constitutional Law "Rules of Procedure of the National Assembly".

(Article 135 amended by HO-197-N of 25 March 2020)

CHAPTER 18

(The Chapter is amended by HO-197-N of 25 March 2020)

(The Law HO-197-N of 25 March 2020 contains a transitional provision relating to Chapter)

(Chapter 18 will enter into force on 31 July 2020 from the moment of formation of the Commission for Performance Evaluation of Judges in accordance with the Decision of the RA General Assembly of Judges N-04A of 31 July 2020)

PERFORMANCE EVALUATION OF JUDGES

(The title is amended by HO-197-N of 25 March 2020)

Article 136. Aim of the performance evaluation of judges

1. The performance of a judge shall be evaluated.
2. The aim of the performance evaluation of judges shall be to:
 - (1) contribute to the selection of the best candidates when compiling the promotion lists of judge candidates;
 - (2) contribute to the selection of the areas of training of judges;
 - (3) reveal ways of improving the effectiveness of the work of the judge;
 - (4) contribute to the self-improvement of the judge;
 - (5) contribute to the improvement of the effectiveness of activities of the court.
3. Results of the performance evaluation of a judge shall be provided to the following bodies:
 - (1) the Training Commission, to select the areas of training of judges;
 - (2) the judge being evaluated, to improve the effectiveness of his or her work and for the latter to self-improve;
 - (3) the Ethics and Disciplinary Commission, to consider the issue of instituting disciplinary proceedings against the judge, in the case provided for by this Chapter;
 - (4) the chairperson of the court, for the purpose of improving the effectiveness of the activities of the given court.
4. Results of performance evaluation of judges, as well as data and information obtained with that regard shall be confidential, except for cases provided for by this Code.

Article 137. Types of performance evaluation of judges

1. The performance of a judge shall be regularly evaluated once every four years, and in an extraordinary manner — upon the initiative of the judge or in the cases prescribed by this Code.
2. Extraordinary evaluation shall not be carried out upon the initiative of the judge, where the performance of the judge has been evaluated during the last two years.
3. Extraordinary evaluation shall be carried out under the procedure and within time limits prescribed by the Supreme Judicial Council.

Article 138. Criteria for performance evaluation of judges

1. Performance evaluation of judges shall be based on the applicable criteria prescribed by this Article that characterise the quality and effectiveness of the work of a judge, as well as the professionalism and conduct of the judge.

2. Criteria for evaluation of the quality and professionalism of the work of a judge shall be:

- (1) ability to justify the judicial act;
- (2) ability to preside over the court session and conduct the court session as prescribed by law.

3. Criteria for evaluation of the effectiveness of the work of a judge shall be:

- (1) effective workload management skill and work planning;
- (2) examination of cases and delivery of judicial acts within reasonable time limits;
- (3) observance by a judge of time limits prescribed by law for the performance of individual procedural actions;
- (4) ability to ensure an efficient working environment.

4. Criteria for evaluation of the ethics and rules of conduct of a judge shall be:

- (1) observance of the rules of conduct and ethics;
- (2) contribution to the public perception of the court and to the confidence therein, attitude towards other judges and the staff of the court.

5. For evaluation based on the criteria for evaluation prescribed by this Article, the commission must take into consideration the audio recordings of at least 10 court sessions for cases examined by the judge (in case of absence — simple paper records) and at least 10 judicial acts resolving the case on the merits (by random selection).

Article 139. Procedure for performance evaluation of judges

1. Performance evaluation of judges shall be carried out by the Commission for Performance Evaluation of Judges on the basis of the criteria prescribed by this Code.

2. The Supreme Judicial Council shall prescribe the methodology of the performance evaluation of judges, including the criteria for evaluation prescribed by Article 138 of this Code, the procedure for collecting data necessary for the evaluation and other details necessary for the performance evaluation of judges.

3. When prescribing the methodology of the performance evaluation of judges, priority shall be given to the criteria prescribed by parts 2 and 3 of Article 138 of this Code for performance evaluation of the judge which are decisive for formation of the evaluation given to the judge.

4. The Supreme Judicial Council shall prescribe the regular timetable of the performance evaluation of judges according to relevant years and judges.

Article 140. Summarising the results of performance evaluation of judges

1. A draft decision on the evaluation results shall be drawn up and shall include a summary of the evaluation results.
2. Draft decision on the evaluation results shall be forwarded to the judge, who shall have the right to submit, within a period of seven days following receipt of the draft, his or her considerations thereon.
3. The Commission for Performance Evaluation of Judges shall review the considerations of the judge on the evaluation results and shall render a decision on the evaluation results.
4. The Commission for Performance Evaluation of Judges shall evaluate the performance evaluation of judges as high, good, average, or low, based on the overall evaluation results, taking as a basis the evaluation scales prescribed by the Supreme Judicial Council which, among others, include the indicators for performance evaluation of the judge based on each criterion, the method of determining the unit based on each indicator, the maximum amount of units, as well as the scope of data documented and serving as a ground for performance evaluation of the judge based on the given indicator and the procedure for gathering those data.
5. The performance evaluation of a judge shall be formed by the average of the evaluations designated for a judge by each member of the Commission based on all the evaluation criteria.
6. The judge member of the Commission for Performance Evaluation of Judges shall not participate in the evaluation and summarisation of the results of his or her performance.

Article 140.1. Consequences of performance evaluation of judges

1. Where the performance of a judge is evaluated as low or average based on the overall evaluation results, the Commission for Performance Evaluation of Judges shall render a decision on sending the judge to additional training, prescribing the criteria by which he or she needs to improve his or her skills.
2. An extraordinary evaluation shall be organised within a three-month period after the judge with a low or average evaluation based on the overall evaluation results completes additional training prescribed by part 1 of this Article.
3. In case of extraordinary evaluation prescribed by part 2 of this Article, evaluation of the criteria prescribed by Article 138 of this Code shall be carried out as prescribed by the Supreme Judicial Council.
4. Where, as a result of performance evaluation of a judge by the Commission for Performance Evaluation of Judges, prima facie grounds for subjecting a judge to disciplinary liability are detected as provided for by Article 142 of this Code, the Commission shall apply to the Ethics and Disciplinary Commission to consider the issue of instituting disciplinary proceedings against the judge.”.

CHAPTER 19

DISCIPLINARY ACTION AGAINST JUDGES

Article 141. Imposing disciplinary action against judges

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

1.1. A panel composed of 4 members of the Supreme Judicial Council shall be formed in the Supreme Judicial Council to examine the issue on imposing disciplinary action against a judge.

1.2. When examining and deciding on the issue of imposing disciplinary action, the panel provided for by part 1.1 of this Article shall act on behalf of the Supreme Judicial Council, acting as the Supreme Judicial Council.

1.3. A separate composition of a panel provided for by part 1.1 of his Article shall be formed for each of disciplinary proceedings.

1.4. The panel provided for by part 1.1 of this Article must include two members of the Supreme Judicial Council elected by the General Assembly of Judges and two members of the Supreme Judicial Council elected by the National Assembly.

1.5. The panels provided for by part 1.1 of this Article shall be formed by drawing lots as prescribed by the Supreme Judicial Council.

2. Disciplinary proceedings shall be conducted on the basis of the principles of lawfulness, non-interference with judicial activities, respect for the independence and keeping high the reputation of judges and courts, proportionality of the disciplinary penalty being imposed for the disciplinary violation committed, impermissibility of arbitrariness and discrimination.

Article 142. Grounds for imposing disciplinary action against judges

1. Grounds for imposing disciplinary action against judges shall be:

(1) violation of provisions of substantive or procedural law while administering justice or exercising, as a court, other powers provided for by law, which has been committed deliberately or with gross negligence;

(2) gross violation by the judge of the rules of judicial conduct prescribed by this Code, committed with intent or gross negligence;

(3) ***(Point repealed by HO-197-N of 25 March 2020)***

(4) ***(Point repealed by HO-197-N of 25 March 2020)***

2. An act shall not be deemed to be a disciplinary violation, where, though it formally contains elements of grounds for subjecting a judge to disciplinary liability as prescribed by this Code, however, due to its less importance, it casts no doubt as to complying, by this judge, with the status of a judge and may not, as to its nature, dishonour the judiciary.

3. ***(Part repealed by HO-197-N of 25 March 2020)***

4. Within the meaning of this Chapter, an act shall be considered to be committed with intent, where the judge realised the unlawfulness of his or her conduct.

5. Within the meaning of this Chapter, an act shall be considered to be committed with gross negligence, where the judge did not realise the unlawful nature of his or her conduct, though he or she obviously could and ought to have done it in that situation.

6. The essential disciplinary violation shall be considered as:

(1) violation provided for by point 1 of part 1 of this Article, which has resulted in fundamental breach of human rights and (or) freedoms stipulated by the Constitution or international treaties ratified by the Republic of Armenia, or has dishonoured the judiciary;

(2) violation provided for by point 2 of part 1 of this Article, which has been committed in breach of obligations of a judge provided for by points 1-4, 8-9, 11-12, 15-16 of part 1 of Article 69 and points 1-3, 7-8, 13-14 of part 2 of Article 70, and which is not compatible with the status of a judge due to circumstances of committal [of violation] and (or) the consequences it gave rise to;

(3) committal of a disciplinary violation by a judge having two warnings or one strict warning imposed on him or her.

7. Reversing or amending a judicial act shall not serve itself as a ground for imposing disciplinary action against the judge who has rendered that act.

8. Imposing administrative, civil, or other liability provided for 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.

9. Interpretation of the law or assessment of facts and proofs while administering justice and exercising — as a court — other powers provided for by law may not itself result in disciplinary action.

10. Disciplinary action shall not be imposed against a judge in case of absence of his or her guilt.

(Article 142 amended, supplemented and edited by HO-197-N of 25 March 2020)

Article 143. The obligation to prove that there is a ground to impose disciplinary action against a judge

1. The obligation to prove that there is a ground to impose disciplinary action against a judge shall rest with the body having instituted the proceedings.

2. A judge charged with a disciplinary violation shall be presumed innocent until proven guilty as prescribed by this Code, based upon the decision of the Supreme Judicial Council on imposing disciplinary action. Any unresolved doubts as to the disciplinary violation committed by a judge shall be interpreted in favour of the judge.

Article 144. 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:

(1) within a period of one year after the violation is detected by the body instituting proceedings, on the grounds of intentional violation or violation with gross negligence of a norm of substantive or procedural law while administering justice or exercising, as a court, other powers provided for by law. Disciplinary proceedings may not be instituted on the ground provided for by this point, where eight years have passed since the entry into legal force of the final judicial act;

(2) within a period of three months after the violation is detected by the body instituting proceedings, on the grounds of intentional violation or violation with gross negligence by a judge of the rules of conduct of a judge prescribed by this Code, but not later than one year after committal of the violation, except for violations of the rules of conduct provided for by points 15 and 16 of part 1 of Article 69 of this Code;

(3) within a period of one year after the violation is detected by the body instituting proceedings, on the grounds of intentional violation or violation with gross negligence by a judge of the rules of conduct provided for by points 15 and 16 of part 1 of Article 69 of this Code, but not later than three years after committal of the violation.

1.1. The periods provided for by point 1 of part 1 of this Article shall not apply to the disciplinary proceedings instituted on the occasion provided for by point 4 of part 1 of Article 146 of this Code. Where the intentional violation or violation with gross negligence of a norm of substantive or procedural law has been detected when administering justice or exercising other functions as a court, based on the results of analysis of an act of the European Court of Human Rights recording violation of international obligations assumed by the Republic of Armenia in the field of human rights protection, disciplinary proceedings may not be instituted on the ground of that violation where 15 years have passed since the entry into force of the relevant act of the European Court of Human Rights.

2. Where the violation provided for by point 1 of part 1 of this Article has been detected prior to the entry into legal force of the final judicial act under the given case, the period of one year provided for by the same point shall be calculated from the moment of entry into legal force of the mentioned act, whereas if the judge has committed violations of procedural norms that entail breach of the right to judicial protection and undermine justice, the proceedings may be instituted also prior to the entry into legal force of the mentioned final judicial act.

(Article 144 edited by HO-197-N of 25 March 2020)

(The Law HO-197-N of 25 March 2020 contains a transitional provision relating to Article 144)

Article 145. Bodies entitled to institute disciplinary proceedings against a judge

1. The following shall be entitled to institute disciplinary proceedings against a judge:

- (1) the Ethics and Disciplinary Commission;
- (2) the Authorised Body;
- (3) the Commission for Prevention of Corruption — in the cases provided for by point 1.1 of this Article.

1.1. Only the Commission for Prevention of Corruption may institute disciplinary proceedings in respect of the violation of the rules of conduct provided for by points 15 and 16 of part 1 of Article 69 of this Code in the cases and under the procedure provided for by this Code, in observance of the requirements defined by the Law “On Commission for Prevention of Corruption”.

2. The body instituting disciplinary proceedings (hereinafter referred to as “the body instituting proceedings”) shall forward the decisions on instituting proceedings, on suspending, resuming and dismissing them, **within a period of three days within three working days** upon rendering them and under the procedure prescribed by part 9 of Article 147 of this Code, to the

other body instituting proceedings, as well as to the person having reported on [violation] and to the relevant judge.

(Article 145 amended and supplemented by HO-197-N of 25 March 2020)

Article 146. Reasons for instituting disciplinary proceedings against a judge

1. The reasons for instituting disciplinary proceedings shall be the following:

- (1) reporting [on violation] by state or local self-government bodies or officials;
- (2) mass media publications about disciplinary violations;
- (3) independent discovery, by the body instituting the proceedings, during the exercise of its powers, of an act that gives rise to disciplinary action;
- (4) detection by the body instituting proceedings of an act containing *prima facie* elements of disciplinary violation, as a result of examination of an act rendered by the European Court of Human Rights, that establishes a violation of international obligations assumed by the Republic of Armenia in the field of human rights protection.

~~2. Reporting [on violation] anonymously shall not be subject to consideration.~~

~~2. The application provided for by point 1 of part 1 of this Article shall specify:~~

- ~~(1) name, surname of the natural person file an application, his or her address; in case of a legal person — name, current address of the legal person, name, surname and title of a person filing an application on its behalf; in case of a state and local self-government body — full name and the name, surname and title of the official;~~
- ~~(2) number of the judicial case with regard to which application has been filed, name, surname and title of the judge for the given case (where applicable);~~
- ~~(3) justifications for imposing disciplinary action against a judge;~~
- ~~(4) claim of the person filing the application;~~
- ~~(5) date of filing an application and signature of the natural person filing an application; in case of a legal person — signature of the representative of the legal person or the official entitled to file an application; and in case of a state and local self-government body — signature of the relevant official."~~

~~2.1. The body instituting proceedings shall not examine the application filed in violation of the requirements prescribed by part 2 of this Article and shall propose to the person having filed the application to eliminate, within 15 working days, all the violations of the requirements prescribed by part 2 of this Article.~~

~~2.2. When instituting and conducting proceedings, the body instituting proceedings shall not be limited to the grounds and justifications introduced in the report~~

3. Until deciding on the issue of institution thereof, the body instituting proceedings shall be entitled to propose to the person having reported on [violation] to submit materials relating to information of significance for instituting disciplinary proceedings.

4. The body instituting disciplinary proceedings shall, as a result of studies conducted, take a decision on instituting disciplinary proceedings or shall not institute disciplinary proceedings.

5. In case of failure to institute disciplinary proceedings based on the [violation] reported by the person provided for by point 1 of part 1 of this Article, the body instituting disciplinary proceedings shall indicate in its response the grounds for not instituting proceedings.

6. Disciplinary proceedings shall not be instituted where:

(1) a disciplinary proceedings has been instituted against the same judge for the same act and by the same body instituting proceedings;

(2) a decision of the same body on not instituting disciplinary proceedings or dismissing the proceedings exists in relation to the issue of imposing disciplinary action against the same judge with regard to the same act;

(3) a decision of the Supreme Judicial Council on the issue of imposing disciplinary action against the same judge with regard to the same act exists;

(4) the grounds for subjecting a judge to disciplinary liability are *prima facie* missing.

(5) all violations of the requirements prescribed by part 2 of this Article have not been remedied within the time limit prescribed by part 2.1 of this Article.

(Article 146 supplemented and edited by HO-197-N of 25 March 2020)

(Pursuant to part 19 of Article 58 of the Law HO-197-N of 25 March 2020 a disciplinary violation may be instituted on the occasion provided for by point 4 of part 1 of Article 146, based on the acts rendered by an international court to which the Republic of Armenia is a party or by other international instance following the entry into force of the Law HO-197-N of 25 March.)

Article 147. Process of disciplinary proceedings instituted against a judge

1. Duration of instituted disciplinary proceedings may not be more than two months before filing a motion with the Supreme Judicial Council to impose disciplinary action.

2. The period referred to in part 1 of this Article may — upon the decision of the body instituting proceedings — be extended for the period of absence of the judge (leave, incapacity for work, secondment, except for secondment to another court, etc.). Information on grounds for and period of absence of the judge shall be provided to the body instituting proceedings by the chairperson of the relevant court.

3. 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 with regard to which there is a judicial act that has entered into legal force;

(2) get familiarised at the court with the materials of any criminal, civil or any other case with regard to which no judicial act has been rendered yet that entered into legal force, while not interfering with the process of administering justice or exercising — as a court — other powers provided for by law;

- (3) recommend that the judge submit written explanations;
 - (4) recommend the person having reported [on violation], as well as the natural and legal persons to submit information and materials relevant for the disciplinary proceedings;
 - (5) demand and receive materials from state and local self-government bodies and officials;
4. A judge against whom disciplinary proceedings has been instituted shall be entitled to:
- (1) submit written explanations, evidence and file motions;
 - (2) receive copies of materials of disciplinary proceedings from the body instituting proceedings;
 - (3) exercise in person or through an advocate the rights provided for by points 1 and 2 of this part.
5. 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 filing a motion requesting the Supreme Judicial Council to impose disciplinary action against a judge.
6. The body having instituted proceedings shall dismiss the disciplinary proceedings, where:
- (1) there is no ground for imposing disciplinary action;
 - (2) the same body having instituted proceedings has not previously instituted disciplinary proceedings against the same person for the same act or has dismissed the instituted disciplinary proceedings;
 - (3) a motion has previously been filed requesting the Supreme Judicial Council to impose disciplinary action against the same person for the same act;
 - (4) a decision of the Supreme Judicial Council on the issue of imposing disciplinary action against the judge on the ground of the same disciplinary violation exists;
 - (5) the powers of the judge have terminated or discontinued;
 - (6) there is a ground prescribed by part 2 of Article 142 of this Code.
7. In case where disciplinary proceedings has been instituted against the judge on the same ground, the body having instituted the proceedings shall later render a decision on suspending the disciplinary proceedings. Running of the period of disciplinary proceedings prescribed by this Article shall be suspended from the day of suspension of the disciplinary proceedings until the resuming thereof.
8. The body having suspended the proceedings shall resume the suspended disciplinary proceedings on the day of receiving a decision from the other body instituting proceedings on dismissing the disciplinary proceedings or from the Supreme Judicial Council on rendering a decision on the issue of the disciplinary action. In case of resuming the proceedings

based on the decision of the Supreme Judicial Council on deciding on the issue of imposing disciplinary action, the body instituting the proceedings shall dismiss it.

9. The body instituting proceedings shall be obliged to ensure the secrecy of the proceedings. All documents delivered within the framework of disciplinary proceedings must be forwarded in closed envelopes marked "official", or in case of impossibility thereof — by sending them to the official e-mail address of the addressee, in which case they are deemed to have been received by the addressee from the moment they are sent to his or her official e-mail address. It shall be prohibited to provide the materials of the disciplinary proceedings to the persons not defined in this Code.

10. No oral deliberations with regard to disciplinary proceedings may take place between the body instituting proceedings and the relevant judge before filing a motion requesting the Supreme Judicial Council to impose disciplinary action.

11. By the decision of the body instituting proceedings, two or more disciplinary proceedings instituted against the same judge on the ground of the same violations may be joined in one set of proceedings before the decision prescribed by part 5 of this Article is rendered. Following the joining, the period provided for by part 1 of this Article shall be calculated from the earlier of the dates for instituting the disciplinary proceedings. The decision on joining the proceedings shall be forwarded to the judge and the other body instituting proceedings within a five-day period.

(Article 147 amended and supplemented by HO-197-N of 25 March 2020)

Article 148. Filing a motion with the Supreme Judicial Council requesting to impose disciplinary action against a judge

1. In case of existence of a ground for imposing disciplinary action against a judge, the body instituting proceedings shall render a decision on filing a motion with the Supreme Judicial Council requesting to decide on the issue of imposing disciplinary action against the judge.

2. A decision on filing a motion to decide on the issue of imposing disciplinary action against a judge shall be composed of introductory, descriptive-reasoning and concluding parts.

3. In the introductory part shall be mentioned the name of the body instituting the disciplinary proceedings, the name and surname of the judge and his or her representative.

4. In the descriptive-reasoning part, the body instituting proceedings shall describe each act considered as a disciplinary violation committed by the judge, the information in support of the commission of that act and the substantiations for qualifying the act as a disciplinary violation.

5. The concluding part shall contain the motion on imposing disciplinary action against a judge, name of the representative filing the motion with the Supreme Judicial Council, date of drawing up the decision, as well as the signature and, where available, the seal of the body instituting proceedings.

6. The decision on filing a motion to decide on the issue of imposing disciplinary action against a judge shall, within a period of three days following the moment of rendering thereof, be forwarded to the Supreme Judicial Council, the judge and the other body instituting proceedings.

Copies of all materials of disciplinary proceedings shall, along with the decision, be forwarded to the Supreme Judicial Council and the judge.

7. As soon as the decision on filing a motion to decide on the issues of imposing disciplinary action has been sent to the Supreme Judicial Council, the body having instituted the proceedings may no longer withdraw it.

8. Within two weeks upon receiving the decision on filing a motion to decide on the issues of imposing disciplinary action and receiving the materials of the disciplinary proceedings, the judge shall be entitled to send a response to the Supreme Judicial Council and the body having instituted the proceedings, attaching the electronic storage medium. In case of existence of reasons recognised as valid by the Supreme Judicial Council, upon the motion of the judge, the Supreme Judicial Council may extend the time limit for submitting a response for a period of up to one week. Failure by the judge to send a response shall not obstruct the examination of the issue of imposing disciplinary action against the judge by the Supreme Judicial Council.

Article 149.
penalties applicable to judges

Disciplinary

1. As a result of considering the issue of imposing disciplinary action against a judge, the Supreme Judicial Council may impose one of the following types of disciplinary penalties on the judge:

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

(3.1) prohibition on being included in the list at the time completion of the promotion list of judge candidates, for a period of one year;

(3.2) dismissal from the position of the chairperson of a court or chairperson of a chamber of the Court of Cassation;

- (4) termination of powers on the ground of a essential disciplinary violation.

1.1. The disciplinary penalty provided for by point 3.2 of part 1 of this Article may not be applied while subjecting a judge to disciplinary liability on the ground prescribed by point 1 of part 1 of Article 142 of this Code.

2. The disciplinary penalty applied to a judge must be proportionate to the committed violation. When applying a disciplinary penalty, the Supreme Judicial Council shall take into account the nature and consequences of the violation, the deliberate intention or gross negligence, the personality of the judge, existing penalties and other noteworthy circumstances.

3. Where a judge has not been subjected to disciplinary liability within two years after being imposed a prohibition on being included in the list at the time of completion of the promotion list of judge candidates or after being dismissed from the position of the chairperson of a court or chairperson of a chamber of the Court of Cassation or after the date of having been imposed a severe reprimand, within one year following the date of having been imposed a reprimand, or within six months following the date of having been imposed a warning, he or she shall be

considered as having no disciplinary penalties.

(Article 149 supplemented by HO-197-N of 25 March 2020)

Article 150. Time period for consideration of the issue of imposing disciplinary action against a judge

1. The Supreme Judicial Council shall consider the issue of imposing disciplinary action against a judge within a period of three months following the receipt of the motion on imposing disciplinary action.

2. In exceptional cases the time period for imposing disciplinary action against a judge may, upon justified decision of the Supreme Judicial Council, be extended by not more than three months, whereas in case of a call for an expert examination — by a period necessary for carrying out the expert examination.

3. Consideration of the issue of subjecting a judge to disciplinary liability shall be suspended where criminal proceedings has been initiated based on the same facts, and it shall resume after the completion of criminal proceedings.

4. The Supreme Judicial Council shall dismiss the consideration of the issue of subjecting a judge to disciplinary liability where there are grounds for discontinuation of the powers of a judge provided for by Article 160 of this Code after resuming the consideration of the issue of subjecting to disciplinary liability. In the course of consideration of the issue of subjecting to disciplinary liability, the criminal judgment, having of acquittal or conviction entered into legal force shall be binding for the Supreme Judicial Council only as to the facts establishing the committal of certain actions and the persons having committed them.

(Article 150 amended and supplemented by HO-197-N of 25 March 2020)

Article 151. Process of considering the issue of imposing disciplinary action against a judge in the Supreme Judicial Council

1. The consideration of the issue of imposing disciplinary action against a judge in the Supreme Judicial Council shall start with reporting, by the person having instituted proceedings, on the nature of the issue and on the motion on imposing disciplinary action. Where disciplinary proceedings has been instituted by the Authorised Body against a judge, the Authorised Body or upon the assignment of the latter— the respective deputy thereof, shall be obliged to be present at the session of the Supreme Judicial Council. Where the disciplinary proceedings has been instituted by the Ethics and Disciplinary Commission, the motion on the disciplinary violation shall be reported at the session of the Supreme Judicial Council by the Chairperson of the Ethics and Disciplinary Commission, or by one of the members of the Commission — upon the assignment thereof. Where the disciplinary proceedings has been instituted by the Commission for Prevention of Corruption, the motion on disciplinary violation shall be reported at the session of the Supreme Judicial Council by the Chairperson of the Commission for Prevention of Corruption, or by one of the members of the Commission — upon the assignment thereof.

2. In the case where, after forwarding the materials of disciplinary proceedings to the Supreme Judicial Council, the body having instituted the proceedings has become known of the circumstances that put the judge in an advantaged situation or exclude the possibility of imposing disciplinary action against him or her, the body having instituted proceedings shall be obliged to

inform the Supreme Judicial Council thereon.

3. After reporting by the body having instituted proceedings, the Supreme Judicial Council shall hear the judge against whom the disciplinary proceedings was instituted or his or her advocate. The members of the Supreme Judicial Council and the representative of the body having instituted the proceedings may address questions to the judge who may answer or refuse to answer them. After hearing the judge or his or her advocate, the Supreme Judicial Council shall proceed with the examination of materials of the proceedings.

4. After determining the scope of the facts relevant for disposition of the case, the Supreme Judicial Council shall be entitled to:

1) to require, upon the motion of the judge, the body having instituted disciplinary proceedings or upon its own initiative, from a judge, the body having instituted disciplinary proceedings, from state and local self-government bodies (their officials), as well as from natural and legal persons to submit evidence which is relevant for consideration of the issue and falls within the scope of influence of the given persons, by setting a time limit for submitting them to the Supreme Judicial Council, whereas in case of failure to voluntarily comply with the decision — to submit it for enforcement as prescribed by the Law “On compulsory enforcement of judicial acts”;

2) to summon witnesses upon the motion of the judge, the body having instituted disciplinary proceedings or upon its own initiative;

3) to call for an expert examination upon the motion of the judge, the body having instituted disciplinary proceedings or upon its own initiative in order to clarify the issues relevant for consideration.

5. In the case where a witness fails to appear, the Supreme Judicial Council shall be entitled to render a decision on compulsory appearance of the witness. The decision on compulsory appearance shall be executed as prescribed by the Law “On compulsory enforcement of judicial acts”.

6. The Supreme Judicial Council shall warn the persons giving testimony under the case, about the liability prescribed for refusing to give testimony or giving false testimony, whereas the experts — about the liability prescribed for rendering an obviously false opinion.

7. The witness summoned for consideration of the issue shall be addressed questions first by the party upon the motion whereof the witness has been summoned, then — by the other party, and in the end — by the members of the Supreme Judicial Council. Where the witness has been summoned upon the initiative of the Supreme Judicial Council, questions shall be addressed thereto first by the Supreme Judicial Council, then by the parties — as of the order determined by the Supreme Judicial Council.

8. The witness shall have the right to refuse to give testimony with regard to certain questions where he or she reasonably assumes that it may later be used against him or her, his or her spouse or his or her close relative.

9. After examining the materials of the proceedings, the Supreme Judicial Council shall hear final speeches of the persons participating in the session, following which the consideration of the issue shall be declared as completed. After declaring the consideration of the

issue as completed, the person presiding the session of the Supreme Judicial Council shall announce the date, venue and time of delivery in public of the decision.

10. After declaring the consideration of the issue as completed, the Supreme Judicial Council shall leave to render a decision.

(Article 151 edited HO-197-N of 25 March 2020)

Article 152. Scope of considering the issue of imposing disciplinary action against a judge in the Supreme Judicial Council

1. The consideration of the issue of imposing disciplinary action against a judge in the Supreme Judicial Council shall be carried out only to the extent of the disciplinary violation indicated in the decision on filing a motion on deciding on issue of imposing disciplinary action against a judge.

Article 153. Rights and responsibilities of a judge during the consideration, in the Supreme Judicial Council, of the issue of imposing disciplinary action against him or her and appeals against decisions rendered

1. A judge shall be entitled to:

(1) get familiarised with, take excerpts from and make carbon copies of the issue having served as a ground for consideration of the issue or the appeal in the Supreme Judicial Council;

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

(3) submit evidence and participate in the examination thereof;

(4) participate in the session, acting in person, as well as through an advocate;

(5) receive compensation for reasonable remuneration rendered to the advocate, in case disciplinary liability has not been entailed.

(6) appeal, as prescribed by this Code, against the decision of the Supreme Judicial Council rendered with regard to imposing disciplinary action against the judge.

2. In the course of consideration by the Supreme Judicial Council of the issue of imposing disciplinary action against a judge and appeals against decisions rendered, the judge shall avail of the guarantees provided for by Articles 61 and 63 of the Constitution.

3. Where a judge, having been summoned by the Supreme Judicial Council, fails to appear without a valid reason, the Supreme Judicial Council shall be entitled to consider issue of imposing disciplinary action against a judge issue of imposing disciplinary action against a judge and the appeal against decisions rendered in the absence of the judge.

Article 154. Decision of the Supreme Judicial Council on imposing disciplinary action against a judge

1. The Supreme Judicial Council shall render one decision within the scope of one set of disciplinary proceedings by applying one sanction. Where the ground for the disciplinary violation proves to be a violation committed on a regular basis, the Supreme Judicial Council shall apply one sanction.

2. In the course of adopting a decision only the members of the Supreme Judicial Council may be present. The Supreme Judicial Council shall put to vote, firstly, the issue of existence of a disciplinary violation, then - that of choosing a disciplinary penalty.

3. In the course of adopting a decision by the Supreme Judicial Council, positions delivered by the members of the Supreme Judicial Council shall not be subject to disclosure.

4. In respect of the issue of imposing disciplinary action against a judge the Supreme Judicial Council may render one of the following decisions:

- (1) on imposing disciplinary action against a judge;
- (2) on rejecting the motion on imposing disciplinary action against a judge.

5. The decision of the Supreme Judicial Council on imposing disciplinary action against a judge shall be adopted in a deliberation room through open voting, by the majority of votes of all members of the panel prescribed by part 1.1 of Article 141 of this Code. Where in the result of voting no decision is adopted due to insufficient number of votes, the decision on rejecting the motion on imposing disciplinary action against a judge shall be deemed to be adopted. The decision shall be drawn up and signed by the members of the panel prescribed by part 1.1 of Article 141 of this Code that have voted for rejecting the motion.

Article 155. Requirements for and announcement of the decision of the Supreme Judicial Council on the issue of imposing disciplinary action against a judge

1. The decision of the Supreme Judicial Council on the issue of imposing disciplinary action against a judge shall be composed of introductory, descriptive-reasoning and final parts.

2. The introductory part of the decision of the Supreme Judicial Council on the issue of imposing disciplinary action against a judge shall indicate the following:

(1) the name and composition of the Supreme Judicial Council **prescribed by part 1.1 of Article 141 of this Code for examination of the issue on imposing disciplinary action against a judge;**

(2) the venue and time of consideration of the issue within 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 body having instituted the proceedings;

(5) names and surnames of the persons having participation in the case.

3. The descriptive-reasoning part of the decision of the Supreme Judicial Council on the issue of imposing disciplinary action against a judge shall briefly indicate the following:

(1) circumstances of essential significance for the consideration of the issue;

(2) position rendered by the body having instituted the proceedings;

(3) explanations and position rendered by the judge against whom the proceedings

were instituted;

(4) explanations and testimonies of the persons summoned to the session of the Supreme Judicial Council;

(5) findings of the Supreme Judicial Council on the disciplinary violation and the circumstances characterising the personality of the judge;

(6) evidence underlying the findings of the Supreme Judicial Council, as well as the arguments of considering any evidence as unreliable;

(7) provisions of the regulatory legal act by which the Supreme Judicial Council was guided when adopting the decision;

(8) reasoning with regard to the position rendered by the parties.

4. The final part of the decision of the Supreme Judicial Council on the issue of imposing disciplinary action against a judge shall indicate the findings of the Supreme Judicial Council , **time limit for appealing against the decision and the body where the appeal may be lodged.**

5. The decision of the Supreme Judicial Council on the issue of imposing disciplinary action against a judge shall be drawn up and the final part thereof shall be announced at the session of the Supreme Judicial Council within 15 days after declaring the consideration of the issue as completed.

~~6. — The decision shall be forwarded to the bodies instituting proceedings and to the judge within five days following its announcement.~~

6. The decision shall be handed over to the bodies instituting proceedings and to the judge immediately after announcing it, and where impossible, the decision shall be forwarded to the bodies instituting proceedings and to the judge within five days after announcing it.

7. The decision of the Supreme Judicial Council on the issue of subjecting a judge to disciplinary liability shall enter into force **in a month** upon its delivery in public. ~~The decision of the Supreme Judicial Council on the issue of subjecting a judge to disciplinary liability shall be subject to appeal within a period of one month starting from the moment when the person (body) bringing the appeal has become known or could have become known of the evidence or circumstances prescribed by part 1 of Article 156.1 of this Code. Where an appeal is lodged against the decision of the Supreme Judicial Council with regard to imposing disciplinary action against a judge, and the decision is not cancelled or changed, it shall enter into force upon the promulgation of the decision.~~

8. *(Part repealed by HO-197-N of 25 March 2020)*

(Article 155 edited and amended by HO-197-N of 25 March 2020)

Article 156. Grounds for rejection, by the Supreme Judicial Council, of the motion on imposing disciplinary action

1. The Supreme Judicial Council shall reject the motion on imposing disciplinary action against a judge, where:

(1) any of the grounds prescribed by part 6 of Article 146 and part 6 of Article 147 of

this Code exists;

(2) the body having instituted proceedings has violated the time limits prescribed by this Code for the course of disciplinary proceedings against a judge and the judge agrees with the dismissal of the proceedings on this ground.

~~Article 156.1. — Appealing against the decision of the Supreme Judicial Council on subjecting a judge to disciplinary liability or on rejecting the motion on subjecting a judge to disciplinary liability~~

~~1. — The appeal against the decision on subjecting a judge to disciplinary liability or on rejecting the motion on subjecting a judge to disciplinary liability, which is brought by a judge or the body having instituted disciplinary proceedings, respectively, shall be examined by the Supreme Judicial Council, where an essential evidence or circumstance has emerged which the person bringing the appeal did not previously submit due to circumstances beyond his or her control and which could have reasonably affect the decision.~~

~~2. — After having received the appeal, the Supreme Judicial Council shall immediately forward it to the other party, which may submit to the Supreme Judicial Council a response to the appeal within a period of 10 days following the receipt thereof.~~

~~3. — The Supreme Judicial Council shall examine the appeals against the decision on subjecting a judge to disciplinary liability or on rejecting the motion on subjecting a judge to disciplinary liability and shall render respective decisions thereon in writing, except for the cases where it comes to a conclusion that it is necessary to examine the appeal at the session. A decision shall be rendered on examining the appeal at the court session.~~

~~4. — In case of delivery of a decision on examining the appeal at the court session, the parties shall be notified of the time and venue of the session. Failure to appear thereby shall not preclude the examination of the appeal. The examination of the appeal at the court session shall start with reporting by the member reporting on the issue, who shall introduce the appeal and arguments underlying the response to the appeal. The members of the Supreme Judicial Council shall have the right to address questions to the rapporteur and the parties having appeared at the session, whereafter the examination of the appeal shall be declared as completed.~~

~~5. — During the examination of the appeal, the Supreme Judicial Council shall revise the decision being appealed against only to the extent of the grounds and justifications of the appeal.~~

~~6. — The appeal shall be examined and the decision shall be rendered within a period of two months following the receipt of the appeal.~~

~~7. — Upon the results of examination of the appeal, the Supreme Judicial Council shall render a decision on upholding the decision or on abolishing, in part or in full, the decision. The decision shall be adopted by the majority of votes of the members of the Supreme Judicial Council participating in the session, if at least half of the total number of members of the Council voted for the decision.. The decision shall enter into force upon~~

~~its delivery in public and shall be final.~~

~~(Article 156.1 supplemented by HO-197-N of 25 March 2020)~~

Article 156.1. Lodging an appeal against the decision rendered with regard to imposing disciplinary action against a judge and submitting a response to the appeal

1. An appeal against the decision on imposing disciplinary action against a judge and rejecting the motion on imposing disciplinary action against a judge may be lodged only to the Supreme Judicial Council.

2. An appeal against the decision on imposing disciplinary action against a judge and rejecting the motion on imposing disciplinary action against a judge may be lodged by:

(1) the judge, in relation to whom a decision on imposing disciplinary action has been rendered;

(2) the body having instituted disciplinary proceedings against the judge.

3. An appeal against the decision rendered with regard to imposing a disciplinary action against a judge may be lodged within a period of one month upon the promulgation of the decision.

4. After having received the appeal, the Supreme Judicial Council shall immediately forward it to the other party, which may submit to the Supreme Judicial Council a response to the appeal within a period of one week upon receiving it. In case of failure to submit a response, the position introduced by the party during the examination of the issue of imposing disciplinary action against a judge shall be relied on.”.

Article 156.2. Examination of the appeal against the decision rendered with regard to imposing disciplinary action against a judge

1. The examination of the appeal against the decision rendered with regard to imposing disciplinary action against a judge shall be conducted by the Supreme Judicial Council with a panel composed of members having not participated in the adoption of the decision.

2. Participation in the examination of the issue of self-recusal or recusal of the member of the Supreme Judicial Council as prescribed by part 6.1 of Article 88 of this Code shall not be hindrance to the inclusion in the panel prescribed by part 1 of this Article.

3. When examining the appeal against the decision rendered with regard to imposing a disciplinary action against a judge and rendering decisions thereon, the panel provided for by part 1 of this Article shall act on behalf of the Supreme Judicial Council, while acting as the Supreme Judicial Council.

4. Where the number of the members of the Supreme Judicial Council provided for by part 1 of this Article is less than 5, the examination of the appeal shall be postponed until the minimum number of the panel of the Supreme Judicial Council prescribed by this part is ensured, but not more than for a period of 3 months. Where the panel of the Supreme Judicial Council is not replenished within the time limit provided for by this part, as well as where the number of members of the Supreme Judicial Council provided for by part 1 of this Article becomes less than 5 due to accepting by the Supreme Judicial Council self-recusal or recusal of a member, then the examination of the appeal shall be conducted regardless of the minimum number provided for by this part.

5. The procedure for forming the panel provided for by part 1 of this Article shall be defined by the Supreme Judicial Council.

6. The appeal shall be examined at the Supreme Judicial Council within a period of two months upon receiving it.

7. At the Supreme Judicial Council the examination of the appeal shall be conducted based on the principles prescribed by part 2 of Article 141 of this Code. The rules prescribed by this Code for examination of the issue of imposing disciplinary action shall apply ("mutatis mutandis") to the examination of the appeal, insofar as they are applicable and unless otherwise prescribed by this Article.

8. The Supreme Judicial Council shall accept the evidence that have not been submitted to the Supreme Judicial Council, where the person submitting them justifies the inability to submit that evidence at the examination of the issue of imposing disciplinary action for the reasons beyond his or her control.

9. The Supreme Judicial Council shall revise the decision on imposing disciplinary action against a judge only within the limits of the grounds and justifications of the appeal.

10. The Supreme Judicial Council shall refer to the ground and justifications of the appeal, where the person bringing the appeal has expressed his or her position at the examination of the issue of imposing disciplinary action, except when the person bringing the appeal has been deprived of the opportunity to express his or her position on the issue at the examination of the case at the Supreme Judicial Council.

11. During the examination of the appeal at the Supreme Judicial Council facts confirmed at the examination of the issue of imposing disciplinary action shall be taken as a basis, except when that fact is disputed in the appeal and the Supreme Judicial Council concludes that while arriving at a conclusion with respect to the given fact an error has taken place. In such cases the Supreme Judicial Council shall have the right to consider a new fact as confirmed or not consider as confirmed the fact confirmed at the examination of the issue of imposing disciplinary action, where it is possible to arrive at such a conclusion based on the evidence considered during the examination of the issue of imposing disciplinary action or the examination of the appeal.

12. Where the evidence considered during the examination of the issue of imposing disciplinary liability does not confirm any fact that was to be confirmed, the Supreme Judicial Council shall have the right to consider a new fact as confirmed, where the person bringing the appeal challenges the fact that it has not been confirmed based on the evidence examined, and where it is possible to confirm such a fact by relying on the evidence considered during the examination of the issue of imposing disciplinary liability or during the examination of the appeal.

13. At the Supreme Judicial Council the examination of the appeal starts with a report of the rapporteur member of the Supreme Judicial Council elected in the manner prescribed by the Supreme Judicial Council, who shall introduce the arguments in favour and against the appeal. After the report the Supreme Judicial Council shall hear the parties.

14. The members of the Supreme Judicial Council may address questions to the rapporteur, the person bringing the appeal and the other party.

Article 156.3. Decisions rendered based on the outcome of the examination of the appeal against decisions adopted with regard to imposing disciplinary action against a judge

1. Based on the outcome of examination of the appeal against decisions on imposing disciplinary action against a judge, the Supreme Judicial Council may adopt one of the following decisions:

(1) on granting the appeal, cancelling the decision on imposing disciplinary action against a judge and on rejecting the motion on imposing disciplinary action;

(2) on granting the appeal, cancelling the decision on rejecting the motion on imposing disciplinary action and on imposing disciplinary action against a judge;

(3) on granting the appeal and on changing the reasoning part of the decision without referring to the concluding part thereof;

(4) on changing the decision on imposing disciplinary action against a judge and applying other type of disciplinary penalty;

(5) on rejecting the appeal and leaving the decision on imposing disciplinary action against a judge unchanged.

2. A decision of the Supreme Judicial Council rendered based on the outcome of examination of the appeal shall be composed of introductory, descriptive-reasoning and final parts.

3. In the introductory part of the decision rendered based on the outcome of the examination of the appeal shall be included following:

(1) the name of the Supreme Judicial Council and the composition of the panel examining the appeal;

(2) place and time of examination of the appeal at the Supreme Judicial Council;

(3) name, surname and title of the party having lodged the appeal;

(4) name, surname and title of the other party;

(5) names, surnames of the persons participating in the case.

(6) panel having rendered the decision, year, month, date of rendering the decision.

4. In the descriptive-reasoning part of the decision rendered based on the outcome of the examination of the appeal shall be included the following:

(1) summary of the decision rendered;

(2) grounds and justifications for the appeal the claim of the person bringing the appeal; where a response has been submitted with regard to the appeal — the position and justifications of the party having submitted the response;

(3) explanations and positions of the parties;

(4) explanations and testimonies of the persons summoned to the session of the panel for examination of the appeal;

(5) evidence underlying the findings of the Supreme Judicial Council, as well as the arguments for considering any evidence as unreliable;

(6) provisions of the regulatory legal act by which the Supreme Judicial Council was guided when adopting the decision;

(7) conclusion on each of the grounds for the appeal.

5. In the final part of the decision of the Supreme Judicial Council shall be the conclusion of the Supreme Judicial Council based on the outcome of the examination of the appeal.

6. The decision of the Supreme Judicial Council based on the outcome of the examination of the appeal lodged against the decision rendered with regard to imposing disciplinary liability against a judge shall be adopted in a deliberation room, through open voting, by the majority of votes of all members of the panel provided for by part 1 of Article 156.2 of this Code. Where no decision is adopted due to insufficient number of votes, then the decision more favourable for the judge shall be deemed to be adopted, and the decision shall be drawn up and signed by the members of the panel provided for by part 1 of Article 156.2 of this Code that have voted for that decision.

7. The decision of the Supreme Judicial Council shall enter into force from the date of its promulgation, shall be final and not subject to appeal.

Article 157. Revision by the Supreme Judicial Council of the decisions on the issue of imposing disciplinary action against a judge on the basis of newly emerged or new circumstances

1. The Supreme Judicial Council shall be entitled to revise its decision on the issue of imposing disciplinary action against a judge on the basis of newly emerged or new circumstances.

2. Newly emerged circumstances shall serve as a ground for revision of the decision of the Supreme Judicial Council on the issue of imposing disciplinary action against a judge, where:

(1) the person having filed an application on the revision thereof proves that these circumstances existed in the course of disciplinary proceedings, were not known and could not have been known to the person having filed the motion and to the Supreme Judicial Council, and that these circumstances are of essential significance for the disciplinary proceedings;

(2) false testimonies of a witness, obviously false opinion of an expert, obviously incorrect translation by a translator, falsified written or material evidence, having been established a criminal judgment of the court, entered into legal force, have resulted in delivery of an incorrect decision under disciplinary proceedings;

(3) criminal judgment of the court, entered into legal force, has established that persons or the representatives of persons participating in disciplinary proceedings have committed a criminal act related to disciplinary proceedings, which has resulted in delivery of an incorrect or unjustified decision, or a criminal act related to the examination of disciplinary proceedings has been committed by a member of the Supreme Judicial Council.

3. New circumstances shall serve as a ground for revision of the decision of the

Supreme Judicial Council on the issue of imposing disciplinary action against a judge, where:

(1) the Constitutional Court has declared the provision of law or another regulatory legal act applied under disciplinary proceedings as contradicting the Constitution and as invalid, or has declared it as complying with the Constitution, though while declaring this provision as complying with the Constitution by virtue of its interpretation, has simultaneously found that it has been applied to the person with different interpretation;

(2) a judicial act, entered into legal force, rendered by an international court of which the Republic of Armenia is a member, has justified the fact of violation of the right of a judge, provided for by an international treaty of the Republic of Armenia;

(3) the Administrative Court has declared as invalid the regulatory legal act, upon its entry into force, through the application whereof the given decision was rendered.

4. A motion on revision based on newly emerged or new circumstances may be filed within 3 months upon emergence of the grounds prescribed by parts 2 and 3 of this Article, provided that 20 years have not elapsed since the entry into force of the decision of the Supreme Judicial Council. A judge may also file a motion on revision after the expiry of 20 years from the date of entry into force of the decision of the Supreme Judicial Council.

5. An application on revision of 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 was rendered the decision on imposing disciplinary action against him or her.

6. The burden of proof of the circumstances serving as a ground for revision of the decision of the Supreme Judicial Council on imposing disciplinary action against a judge shall fall upon the person having submitted the application.

7. Where the Supreme Judicial Council finds that there are no grounds for revision of the decision on imposing disciplinary action against a judge on the basis of newly emerged or new circumstances, it shall adopt a decision on not revising the decision on imposing disciplinary action.

8. Where there are grounds for revision of 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 abolish its decision and render a new decision.

9. Where the Supreme Judicial Council abolishes the decision on terminating the powers of a judge based on newly emerged or new circumstances as a disciplinary liability, it shall render a decision on reinstating this judge in his or her former position. In case of absence of a vacant position of a judge of relevant specialisation in the given court, the judge shall obtain the status of a reserve judge. In case of being reinstated in the former position, the judge shall be paid the average salary for the entire period of forced idleness.

Article 158. Disciplinary liability of persons included in the lists of contenders for judge candidates and judge candidates

1. The Ethics and Disciplinary Commission shall institute disciplinary proceedings in case of receiving a report on violation of the rules of conduct of a judge or failure to perform the obligation of undergoing mandatory training provided for by law — by the contenders for judge candidates and judge candidates, including by a person included in the promotion lists of candidates and not deemed as a judge — or in case of detecting a prima facie violation in the course of

consideration of any issue within the scope of his or her competence.

2. The Supreme Judicial Council may, following the consideration of the issue on imposing disciplinary action against the persons included in the list of judge candidates, apply one of the following disciplinary penalties:

- (1) warning;
- (2) reprimand;
- (3) severe reprimand;
- (4) removing a person from relevant list.

3. The norms of this Chapter shall extend to the procedure for imposing disciplinary action against the persons included in the lists of contenders for judge candidates and judge candidates, including the promotion list of candidates.

(Article 158 amended by HO-197-N of 25 March 2020)

CHAPTER 20

TERMINATION AND DISCONTINUATION OF POWERS OF A JUDGE

Article 159. Termination of the powers of a judge

1. The rules of Chapter 19 of this Code shall, *mutatis mutandis*, apply to the proceedings on termination of powers of a judge, in so far as they are applicable and unless otherwise prescribed by this Chapter.

2. Powers of a judge shall be terminated upon the decision of the Supreme Judicial Council, where he or she:

- (1) has violated the incompatibility requirements;
- (2) has engaged in political activities;
- (3) has been failed, due to temporary incapacity for work, to perform his or her official duties for more than four consecutive months, or for more than six months during a calendar year, except for the reason of being on maternity leave, leave in case of birth of a child or adoption of a child;
- (4) has physical impairment or disease hindering the appointment to the position of a judge, as result whereof he or she is unable to exercise the powers of a judge, or has refused to undergo the mandatory medical examination provided for by part 3 of this Article.

2.1. The powers of a judge may be terminated on the ground of violation of the incompatibility requirements prescribed by the Law "On public service", by taking into account the opinion submitted by the Commission for Prevention of Corruption to the Supreme Judicial Council.

3. In case of prima facie existence of the ground provided for by point 4 of part 1 of this Article, the chairperson of relevant court shall apply to the Authorised Body for organising the medical examination of the judge by competent authority. The judge shall be obliged to undergo the medical examination.

4. In case of existence of the 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 and the Ethics and Disciplinary Commission thereon.

5. Where the Supreme Judicial Council abolishes the decision on terminating the powers of a judge based on newly emerged or new circumstances, it shall render a decision on reinstating this judge in his or her former position. In case of absence of a vacant position of a judge of relevant specialisation in the given court, the appointed judge shall obtain the status of a reserve judge. In case of being reinstated in the former position, the judge shall be paid the average salary for the entire period of forced idleness.

(Article 159 amended and supplemented by HO-197-N of 25 March 2020)

Article 160. Discontinuation of powers of a judge

1. The powers of a judge shall discontinue where:

- (1) he or she files a resignation;
- (2) he or she has attained the age of 65;
- (3) the civil judgment of the court on declaring him or her as having no active legal capacity, missing or dead has entered into legal force;
- (4) the criminal judgment of conviction rendered by the court against him or her has entered into legal force or the criminal prosecution has been terminated on a non-acquittal ground;
- (5) he or she has lost the citizenship of the Republic of Armenia or has acquired the citizenship of another State;
- (6) he or she has died.

2. The powers of a judge shall discontinue on the ground of point 1 of part 1 of this Article from the date of pursuing, by the judge, his or her resignation at the session of the Supreme Judicial Council convened in respect of the given issue or failing to appear at the session thereby.

3. On the ground of point 2 of part 1 of this Article, the term of office of a judge shall expire from the next day of attaining thereby the age of 65.

4. On the ground of point 6 of part 1 of this Article, the powers of a judge shall discontinue on the day of his or her death.

5. In case of discontinuation of the powers of a judge on the grounds provided for by points 1 and 6 of part 1 of this Article, the Chairperson of the Supreme Judicial Council shall immediately place an announcement on the official website of the judiciary.

6. In case of discontinuation of the powers of a judge on the grounds provided for by point 2 of part 1 of this Article, the Chairperson of the Supreme Judicial Council shall place an announcement on the official website of the judiciary not earlier than one month and not later than one week before the expiry of the term of office of the judge.

7. The powers of a judge shall discontinue on the grounds provided for by points 3-5 of part 1 of this Article from the date of adoption of the decision of the Supreme Judicial Council on stating the existence of relevant circumstance.

8. State and local self-government bodies and officials shall immediately transfer information on the grounds provided for by points 3-5 of part 1 of this Article, as well as on the elimination thereof, to the Supreme Judicial Council.

9. The Supreme Judicial Council shall revise the decision provided for by part 7 of this Article in case of emergence of the grounds prescribed by Article 157 of this Code, as well as reversal and change of the relevant civil judgment or criminal judgment serving as a ground for discontinuation of the powers of a judge, or in case of abolishment of the decision on terminating criminal prosecution, and shall render a decision on reinstating the judge in his or her former position. In case of absence of a vacant position of a judge of relevant specialisation in the given court, the appointed judge shall obtain the status of a reserve judge. In case of being reinstated in the former position, the judge shall be paid the average salary for the entire period of forced idleness.

CHAPTER 21**CONSIDERATION OF AND DECIDING ON THE ISSUE, WITHIN SUPREME JUDICIAL COUNCIL, OF GIVING CONSENT FOR INSTITUTING CRIMINAL PROSECUTION AGAINST A JUDGE OR DEPRIVING HIM OR HER OF LIBERTY WITH RESPECT TO EXERCISE OF HIS OR HER POWERS****Article 161. Applying to the Supreme Judicial Council with a motion of giving consent for instituting criminal prosecution against a judge or depriving him or her of liberty**

1. The Prosecutor General shall file a motion with the Supreme Judicial Council with regard to the issue of giving consent for instituting 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 shall submit to the Supreme Judicial Council all the materials, attached to the motion, having served as a ground for the motion on giving consent for instituting criminal prosecution against a judge or depriving him or her of liberty.
3. In case of receiving the motion of the Prosecutor General with the regard to the issue of giving consent for initiating criminal prosecution against a judge or depriving him or her of liberty, the Chairperson of the Supreme Judicial Council shall immediately convene a session of the Supreme Judicial Council.

Article 162. Time period for consideration of the issue of giving consent for instituting criminal prosecution against a judge or depriving him or her of liberty

1. The Supreme Judicial Council shall render a decision on issues 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 motion of the Prosecutor General.
2. The time period mentioned in part 1 of this Article may be extended upon the decision of the Supreme Judicial Council in case of failure to appear, by a judge, at the session of the Supreme Judicial Council for valid reason.

Article 163. Course of consideration of the issue of giving consent for instituting criminal prosecution against a judge or depriving him or her of liberty

1. Consideration of the issue of giving consent for instituting criminal prosecution against a judge or depriving him or her of liberty shall be held behind closed doors.
2. In the course of consideration of the issue of giving consent for instituting 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, whereas in case of impossibility — his or her deputy, shall be obliged to be present at the session of the Supreme Judicial Council and file the motion.
3. In the course of consideration of the motion with regard to the issue of giving consent for instituting criminal prosecution against a judge or depriving him or her of liberty, the judge shall have the right to get familiarised with all documents and materials submitted for consideration of the issue by the Supreme Judicial Council, take excerpts, receive the carbon

copies therefrom, ask questions, file objections, give explanations and file motions, as well as to act through an advocate.

4. Where a judge does not have an advocate, the Supreme Judicial Council shall, for the purpose of representing his or her interests, immediately involve a public defender following the receipt of the motion. The judge shall have the right to waive the public defender.

5. A judge shall participate in the consideration of the issue of giving consent for instituting criminal prosecution against a judge or depriving him or her of liberty, at the Supreme Judicial Council. Where the judge fails to appear at the session of the Supreme Judicial Council without valid reason, the Supreme Judicial Council shall consider the issue of giving consent for instituting criminal prosecution against a judge or depriving him or her of liberty in the absence of the judge.

Article 164. Decision of the Supreme Judicial Council on the issue of giving consent for instituting criminal prosecution against a judge or depriving him or her of liberty

1. Decisions of the Supreme Judicial Council shall be adopted under the procedure prescribed for adopting a decision on imposing disciplinary action against a judge, unless otherwise provided for by this Article.

2. The issues of giving consent for instituting criminal prosecution against a judge and depriving him or her of liberty shall be voted separately, as a result whereof a decision shall be rendered on granting or rejecting each motion.

3. In case of rejecting to give consent for instituting criminal prosecution against a judge, the issue of giving consent for depriving the judge of liberty shall not be considered.

4. Upon adopting a decision on rejecting to give consent for instituting criminal prosecution against a judge or depriving him or her of liberty, the judge shall be immediately released where he or she was deprived of liberty prior to that.

5. The decision on giving consent for instituting criminal prosecution against a judge or depriving him or her of liberty shall enter into force upon its announcement.

6. The decision of the Supreme Judicial Council on giving consent for instituting criminal prosecution against a judge or depriving him or her of liberty shall not imply establishment of the fact of existence of grounds for instituting 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. An application on instituting criminal prosecution against a judge or depriving him or her of liberty may not be submitted to the Supreme Judicial Council for the second time on the same ground.

Article 165. Suspension of powers of a judge with regard to instituting criminal prosecution against a judge or depriving him or her of liberty

1. Powers of a judge shall be suspended with regard to instituting criminal prosecution

against a judge or depriving him or her of liberty, upon the decision of the Supreme Judicial Council, until completion of criminal proceedings.

1.1. In case of instituting criminal prosecution against a judge with regard to executing powers other than those vested thereto, the Prosecutor General shall promptly inform the Supreme Judicial Council thereon.

2. The judge shall, during the period of suspension of his or her powers, receive compensation as in case of idleness ensuing not due to the fault of employee.

(Article 165 supplemented by HO-197-N of 25 March 2020)

CHAPTER 22
FINAL AND TRANSITIONAL PROVISIONS

Article 166. Final and transitional provisions

1. The Judicial Code of the Republic of Armenia shall enter into force on the day of assumption by the newly-elected President of the Republic of Armenia of his or her office, except for the provisions on the formation of the Supreme Judicial Council, which shall enter into force on the day following the official promulgation of this Code.

2. To repeal, from the day of assumption by the newly-elected President of the Republic of Armenia of his or her office, the Judicial Code of the Republic of Armenia of 21 February 2007 and Law of the Republic of Armenia HO-137-N of 22 February 2007 “On the entry into force of the Judicial Code of the Republic of Armenia”.

3. The powers of members of the Council of Justice shall discontinue, and the Supreme Judicial Council shall assume its powers on the day of expiry of the powers of the President of the Republic.

4. The National Assembly and the General Assembly each shall elect three relevant members of the first staff composition of the Supreme Judicial Council for a period of five years, and two members — for a period of three years. Moreover, the positions of members of the first staff composition of the Supreme Judicial Council, elected by the National Assembly, shall be numbered, prescribing a period of five years for the term of office of the first, second and third positions, and a period of three years for the fourth and fifth positions.

5. Factions of the National Assembly each may nominate one candidate until 22 February 2018 for each position of members of the first staff composition of the Supreme Judicial Council, elected by the National Assembly, indicating in the official letter also the reference number of the position and term of office of the nominated candidate.

6. Elections of members of the first staff composition of the Supreme Judicial Council, elected by the General Assembly, shall be held by 2 March 2018. The term of office of the first three candidates having received the maximum coefficient and elected by the General Assembly shall constitute five years, whereas that of the next two - three years. The coefficient provided for by this part shall be calculated as prescribed by part 16 of Article 76 of this Code.

7. The issues prescribed by part 15 of Article 76 of this Code shall be settled before prescribing the rules of procedure of the General Assembly, by a separate decision of the General Assembly, which shall be adopted before the election of judge members of the first staff composition of the Supreme Judicial Council.

8. The first session of the Supreme Judicial Council shall be convened, within a period of five days following the election of members of the Supreme Judicial Council, by the elder member of the Council, during which a chairperson of the Council shall be elected from among the members elected by the National Assembly.

9. The provisions prescribed by this Code for a judge of the Constitutional Court shall extend also to a member of the Constitutional Court.

10. The relevant acts adopted by the Council of Justice, the General Assembly, the

Council of Court Chairpersons and the Chairperson of the Court of Cassation shall have effect until the adoption, by the Supreme Judicial Council, of the acts prescribed by this Code.

11. The provisions provided for by this Code — with regard to the relations regulated whereby decisions of the Supreme Judicial Council must be adopted, and there are no acts of the bodies provided for by part 10 of this Article — shall apply from the day of adoption of relevant decision by the Supreme Judicial Council, unless another time period is prescribed by this decision.

12. Parts 4-6 of Article 57 of this Code shall have effect from 1 January 2019.

13. The list of judge candidates, approved by the President of the Republic before the day of assumption by the first staff composition of the Supreme Judicial Council of its powers, shall remain in effect after the entry into force of this Code, and the provisions prescribed by this Code for contenders for judge candidates shall apply, prior to that, to judge candidates having not completed the study at the Academy of Justice.

14. The promotion list for being appointed to the position of a judge at the courts of appeal, approved by the President of the Republic until the day of assumption by the first staff composition of the Supreme Judicial Council of its powers, shall have effect until 1 January 2019. The Supreme Judicial Council shall approve the list of judge candidates to be appointed by way of promotion to the position of a judge at the courts of appeal before the expiry of this time period.

15. The promotion list for being appointed to the position of a judge at the Court of Cassation, approved by the President of the Republic until the day of assumption by the first staff composition of the Supreme Judicial Council of its powers, shall lose its effect from the day of assumption by the newly-elected President of the Republic of his or her office.

16. The newly-elected President of the Republic shall make primary appointments at the Courts of First Instance and Courts of Appeal, based on the lists provided for by parts 13 and 14 of this Article, taking into account the regulations provided for by part 22 of this Article.

17. Within a period of three months from the day of assumption by the first staff composition of the Supreme Judicial Council of its powers:

(1) the Supreme Judicial Council shall determine the seats of Courts of First Instance, not prescribed by this Code, the support territories of seats, the distribution of judges as of the seats and specialisations as well as the number of judges;

(2) adopt all acts related to distribution, redistribution of court cases, formation and substitution of court staffs, provided for by this Code.

18. Before the Supreme Judicial Council defines the central seats of the Courts of First Instance of General Jurisdiction, the central seats provided for by the Judicial Code of the Republic of Armenia of 21 February 2007 shall operate.

19. The Supreme Judicial Council shall, according to the schedule approved thereby, adopt legal acts not provided for by part 17 of this Article by 1 January 2021. The Supreme Judicial Council shall approve the schedule within one month from the day of assumption of its powers.

20. The Court of Bankruptcy shall operate from 1 January 2019, and the judges of the Court of Bankruptcy, including the Chairperson of the Court of Bankruptcy, appointed prior to that, shall be deemed as having assumed office from 1 January 2019.

21. By 1 January 2019:

(1) bankruptcy cases shall continue to be conducted by the judges specialised in bankruptcy matters at the Courts of First Instance of General Jurisdiction, and only bankruptcy cases shall be distributed thereto;

(2) the Court of First Instance of General Jurisdiction of the City of Yerevan shall operate with composition of at least 66 judges;

(3) the Court of First Instance of General Jurisdiction of Lori Marz shall operate with composition of at least 13 judges;

(4) the Court of First Instance of General Jurisdiction of Shirak Marz shall operate with composition of at least 13 judges;

(5) the Court of First Instance of General Jurisdiction of Armavir Marz shall operate with composition of at least 8 judges;

(6) the Court of First Instance of General Jurisdiction of Ararat and Vayots Dzor Marzes shall operate with composition of at least 11 judges.

22. Judges of civil specialisation of the Courts of First Instance of General Jurisdiction may, within a period of three months following the day of assumption by the first staff composition of the Supreme Judicial Council of its powers, apply to the Supreme Judicial Council with a request of being appointed to the position of a judge of the Court of Bankruptcy. The Supreme Judicial Council shall, upon the applications of judges of the Courts of First Instance of General Jurisdiction relating to the transfer to the Court of Bankruptcy, render a decision on the transfer of judges and may propose their candidacies to the President of the Republic within a period of one month following the expiry of the deadline for submitting the applications.

23. From 1 January 2019, all bankruptcy cases conducted in the Republic of Armenia shall, within a period of one month, be transferred to the Court of Bankruptcy, and point 3 of part 2 of Article 71 of this Code shall not be applicable during their distribution at the Court of Bankruptcy.

24. From the day of assumption by the first staff composition of the Supreme Judicial Council of its powers, the Supreme Judicial Council shall exercise the powers of the founder of the Judicial Department and shall, within a period of two months, bring the Charter and structure of the Judicial Department in compliance with the requirements of this Code.

25. The General Assembly shall approve the rules of ethics of a judge by 1 January 2019.

26. The activities of the Commission for Performance Evaluation of Judges and the powers of the members thereof, provided for by the Judicial Code of the Republic of Armenia of 21 February 2007, shall discontinue on the day of assumption by the first staff composition of the Supreme Judicial Council of its powers.

27. ***(Part repealed by HO-197-N of 25 March 2020)***

28. The requirement for knowledge of foreign languages, prescribed by Article 97 of this Code, shall be apply from 1 January 2020.

29. The Judicial Department shall, within a period of three months from the day of assumption by the first staff composition of the Supreme Judicial Council of its powers and in accordance with the schedule approved by the Supreme Judicial Council, submit to the Supreme Judicial Council the lists of judges drawn up in accordance with this Code, based on which the

candidates for chairpersons of courts and those of the Chambers of the Court of Cassation shall, within a period of one month from the day of receipt of each list, be proposed to the President of the Republic and the National Assembly, respectively.

30. By 30 November 2018, the Judicial Department shall submit to the Supreme Judicial Council the list of judges of the Court of Bankruptcy, based on which the candidate for the Chairperson of the Court of Bankruptcy shall, within a period of two weeks, be proposed to the President of the Republic.

31. The fact of having been appointed to positions of chairpersons of courts and those of the Chambers of the Court of Cassation before the day of assumption by the first staff composition of the Supreme Judicial Council of its powers shall not prevent from being included in the lists provided for by part 29 of this Article.

32. In the course of conducting the appointment or election of chairpersons of courts and those of the Chambers of the Court of Cassation for the first time following the day of assumption by the first staff composition of the Supreme Judicial Council of its powers, the requirement with regard to having certain experience at the given court, prescribed by this Code, shall not apply.

(Article 166 amended by HO-197-N of 25 March 2020)

PRESIDENT

OF THE REPUBLIC OF ARMENIA

S. SARGSYAN

10 February 2018

Yerevan

HO-95-N

Final part and transitional provisions

1. This Law shall enter into force on the tenth day following its official promulgation.

2. Regulations in place before the entry into force of this Law shall apply to disciplinary proceedings instituted before the entry into force of this Law, including completed disciplinary proceedings, and decisions rendered based on the outcome of such proceedings.

3. The Supreme Judicial Council shall adopt decisions deriving from this Law, including bring its Rules of Procedure into compliance with this Law within a period of one month after the entry into force of this Law.

EXPLANATORY REPORT
TO THE DRAFT CONSTITUTIONAL LAW ON MAKING SUPPLEMENTS AND
AMENDMENTS TO THE CONSTITUTIONAL LAW
"JUDICIAL CODE"

Necessity for Regulation

The necessity for drafting the Constitutional Law "On making supplements and amendments to the Constitutional Law "Judicial Code of the Republic of Armenia"" (hereinafter referred to as the "Draft") arises from the need to foresee the possibility of appealing against decisions rendered in the proceedings of subjecting a judge to disciplinary liability and terminating the powers of a judge, as well as the necessity to resolve a number of practical issues arising as a result of application of these institutes.

Current Background

No recourse to a procedure for appealing against decisions of the Supreme Judicial Council (hereinafter referred to as "the SJC") on subjecting a judge to disciplinary liability or terminating the powers of a judge are foreseen by the Constitutional Law "Judicial Code of the Republic of Armenia"" (hereinafter referred to as the "the Judicial Code"). However, international instruments have repeatedly highlighted the necessity to introduce an appeal against decisions of competent bodies on subjecting a judge to disciplinary liability or terminating the powers of a judge. Moreover, neither requirements for the report on initiating disciplinary proceedings, nor mechanisms for ensuring the effectiveness of the investigations of initiated disciplinary proceedings — such as the regulations on combining interrelated motions — are envisaged by the Judicial Code in force.

Thus:

1. Point 20 of **UN Basic Principles "On the Independence of the Judiciary"** envisages that decisions in disciplinary, suspension or removal proceedings should be subject to an independent review¹.

2. It is stated in paragraph 69 of the **Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe** that disciplinary proceedings "should be conducted by an independent authority or a court with all the guarantees of a fair trial and provide the judge with the right to challenge the decision and sanction².

3. The **OSCE/ODIHR "Note on International Standards and Good Practices of Disciplinary**

¹ the UN Basic Principles on the Independence of the Judiciary (endorsed by the UN General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985).

² Recommendation CM/Rec(2010)12 of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities, paragraph 69, <https://rm.coe.int/cmrec-2010-12-on-independence-efficiency-responsibilites-of-judges/16809f007d>.

Proceedings against Judges” highlights that disciplinary procedures also need to foresee the possibility of appealing a decision taken by the first-instance disciplinary body (be it an authority, tribunal or court) to a court³.

4. The necessity for envisaging mechanisms for appealing the decisions on subjecting a judge to disciplinary liability has also been emphasised in many opinions and reports of ***the Venice Commission for “Democracy through Law”*** (hereinafter referred to as “the Venice Commission”).

(1) *In its report “On Judicial Appointments”*, the Venice Commission has stated that it favours the power of judicial councils or disciplinary courts to carry out disciplinary proceedings⁴. The Venice Commission has also noted that “an appeal against disciplinary measures to an independent court should be available⁵”.

(2) In the conclusions of *the Report “On the Independence of the Judicial System”*, the Commission stated that there should be the possibility of an appeal to a court against decisions of disciplinary bodies⁶.

(3) In its opinions issued on the draft laws related to the judiciaries of different countries also the Venice Commission stated that there should be a possibility to appeal the disciplinary liability measures applied to judges⁷.

The need for availability of an appeal mechanism against the decisions of the Supreme Judicial Council in disciplinary matters was also referred to by the Venice Commission in its Opinion on the Draft Amendments to Constitution of the Republic of Armenia⁸.

Furthermore, the Commission has repeatedly highlighted the importance of this issue in its opinions on the Judicial Code, as well as on the drafts envisaging amendments therein. Particularly:

³ OSCE/ODIHR Note on International Standards and Good Practices of Disciplinary Proceedings against Judges, page 19, <https://www.osce.org/odihr/410387>.

⁴ CDL-AD(2007)028-e, Judicial Appointments - Report adopted by the Venice Commission at its 70th Plenary Session (Venice, 16-17 March 2007), § 49.

⁵ CDL-AD(2007)028-e, Judicial Appointments - Report adopted by the Venice Commission at its 70th Plenary Session (Venice, 16-17 March 2007), §25; Opinion on the draft Law on the High Judicial and Prosecutorial Council of Bosnia and Herzegovina, §110.

⁶ CDL-AD(2010)004-e, Report on the Independence of the Judicial System Part I: The Independence of Judges adopted by the Venice Commission at its 82nd Plenary Session (Venice, 12-13 March 2010), § 43.

⁷ CDL-AD(2018)029, Opinion on the provisions on the Prosecutorial Council in the draft Organic Law on the Prosecutor’s Office and on the provisions on the High Council of Justice in the existing Organic Law on General Courts of Georgia, §53; CDL-AD(2016)009, Final Opinion on the revised draft constitutional amendments on the Judiciary (15 January 2016) of Albania, §62; CDL-AD(2014)008, Opinion on the draft Law on the High Judicial and Prosecutorial Council of Bosnia and Herzegovina, §110; CDL(1995)074rev, Opinion on the Albanian law on the organisation of the judiciary? (chapter VI of the Transitional Constitution of Albania), page 4; CDL-AD(2017)019, Opinion on the Draft Judicial Code of Armenia, §§144, 145.

⁸ CDL-AD(2015)037, First Opinion on the Draft Amendments to the Constitution (Chapters 1 to 7 and 10) of the Republic of Armenia, § 153

1. In its Opinion of 2017 on the Draft Judicial Code⁹, the Venice Commission stated that the draft Judicial Code does not provide for a right of appeal against the decisions of the SJC in disciplinary matters. Under the draft Code, the only legal avenue available to the judge concerned is to lodge a constitutional complaint before the Constitutional Court. Thus, the Constitutional Court is entitled to examine the “constitutionality of the regulatory legal act applied against [the judge] by the decision of the Supreme Judicial Council on imposing disciplinary action”. The Venice Commission added that however, such a complaint to a Constitutional Court cannot be seen as an appellate review. In particular, the Commission stated that, first of all, this complaint has a very narrow scope: in many such cases, no “constitutionality” issue would arise, and yet the disciplinary sanction may be imposed unjustly. Second, constitutional basis for such a complaint is unclear. The Armenian Constitution does not list, amongst other competencies of the Constitutional Court, the power to examine appeals against the decisions of the Supreme Judicial Court. In addition, the Venice Commission held previously, “examination of appeals against the decisions [of the judicial council] in disciplinary cases is not a part of the core functions of a constitutional court.”¹⁰ Therefore, in any event the Constitutional Court is not well adapted to hear such cases. Thus, the Venice Commission concluded that a constitutional complaint by the aggrieved judge cannot qualify as a proper appeal against the disciplinary sanction. The Venice Commission highlighted that **the absence of an appeal system is a source of concern.**

The Venice Commission has also emphasised that the termination of powers of a judge should be regulated by the rules of disciplinary proceedings.

2. In the Joint Opinion of 2019 On the Amendments to the Judicial Code and Some other Laws¹¹, the Venice Commission stated that as proclaimed by Article 175 (2) of the Constitution, in the disciplinary field the Supreme Judicial Court “acts as a court”. The Judicial Code develops this constitutional provision further: it ensures the adversarial nature of the disciplinary procedures and guarantees procedural rights to the judge concerned. Furthermore, members of the Supreme Judicial Court enjoy some basic guarantees of their independence (the rules on their appointment, tenure, etc.). Thus, according to the Venice Commission, the role of the Supreme Judicial Court in the disciplinary matters is generally compatible with Recommendation CM/Rec(2010)12 which indicates that disciplinary proceedings “should be conducted by an independent authority or a court with all the guarantees of a fair trial [...]”¹², and with Consultative Council of European Judges Opinion no. 21, which recommends that “disciplinary proceedings should always be carried out

⁹ CDL-AD(2017)019-e, Armenia - Opinion on the Draft Judicial Code, adopted by the Venice Commission at its 112th Plenary Session (Venice, 6-7 October 2017), [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2017\)019-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2017)019-e).

¹⁰ CDL-AD(2014)026, Opinion on the seven amendments to the Constitution of “the former Yugoslav Republic of Macedonia” concerning, in particular, the judicial Council, the competence of the Constitutional Court and special financial zones, § 93.

¹¹ CDL-AD(2019)024-e, Armenia - Armenia - Joint Opinion of the Venice Commission and the Directorate of Human Rights (DHR) of the Directorate General of Human Rights and Rule of Law (DGI, on the amendments to the Judicial Code and some other Laws, adopted by the Venice Commission at its 120th Plenary Session (Venice, 11-12 October 2021), [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2019\)024-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2019)024-e).

¹² Recommendation CM/Rec(2010)12 of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities, point 69, <https://rm.coe.int/cmrec-2010-12-on-independence-efficiency-responsibilites-of-judges/16809f007d>.

essentially by judicial bodies (such as a disciplinary commission or court, or a branch of the high judicial council)¹³. However, the Commission emphasised again that, **“one issue remains, however, unresolved — it is the absence of an appeal to a court of law against decisions of the SJC in disciplinary matters”**¹⁴.

Referring to the regulations provided for in Article 156.1 of the Judicial Code on appealing decisions of the Supreme Judicial Council on subjecting a judge to disciplinary liability, the Commission has noted that the proposed amendments contain a new provision on “appealing” decisions of the Supreme Judicial Council (new Article 156-1). However, according to the Venice Commission, this mechanism can hardly be characterised as a proper “appeal”. It rather resembles a re-opening by the same body (the SJC) of a previously decided case on newly discovered circumstances¹⁵. The very notion of “appeal” implies the control by another body of the legality and merits of the decision based on the same (and not newly discovered) facts and evidence. So, the proposed mechanism cannot replace an appeal in the proper sense of the word “appeal”.

In the opinion of the Venice Commission, there are several reasons to **seriously consider introducing an appeal against the decisions of the Supreme Judicial Council**. First, Article 6 of the European Convention on Human Rights (ECHR) guarantees, implicitly, the right of access to court. Assuming that a disciplinary sanction against a judge affects his or her civil rights and obligations, this judge must be given such access. According to the Venice Commission, the question is whether the Armenian Supreme Judicial Council qualifies as a “court”. In the case of *Ramos Nunes de Carvalho e Sá v. Portugal* the Grand Chamber of the European Court of Human Rights (ECtHR) concluded that since the Portuguese High Council of the Judiciary was an administrative body, Article 6 of ECHR would require “subsequent control by a judicial body that has full jurisdiction” (§ 132), i.e. full appeal. In other words, the Venice Commission held that if the ECtHR finds that the Supreme Judicial Council does not satisfy the requirements of a judicial body (contrary to what is proclaimed in Article 175 (2) of the Constitution), the necessity to have an appeal to a court of law would stem from the requirements of the European Convention.

Secondly, the Venice Commission stated that even if no question under Article 6 arises, the need to have an appeal to a court of law in disciplinary matters stems from a number of European documents, such as, for example, Opinion no. 10 by the Consultative Council of European Judges (CCJE)¹⁶. It is stated in point 39 of the Opinion that “some decisions” of the Council for the Judiciary, such as “the decisions in relation to [...] the discipline and dismissal of judges” should be “subject to the possibility of judicial review”. The standards of the Committee of Ministers are more flexible: Recommendation CM(2010)12, in p. 69, says that disciplinary proceedings “should be conducted by an independent authority or a court with all the guarantees of a fair trial and provide the judge with the right to challenge the decision and sanction.” So, the Recommendation of the Committee of Ministers will be complied with if there is a possibility to challenge the sanction – but it is not specified whether the body hearing an appeal needs to be a court of law. In any event, the

¹³ CCJE, *Opinion n° 21 (2018) on preventing corruption among judges*, point 30, <https://rm.coe.int/ccje-opinions-compilation-1-23-en-final/1680a40c2e>.

¹⁴ CDL-AD(2019)024-e, Armenia - Armenia - Joint Opinion of the Venice Commission and the Directorate of Human Rights (DHR) of the Directorate General of Human Rights and Rule of Law (DGI, on the amendments to the Judicial Code and some other Laws, adopted by the Venice Commission at its 120th Plenary Session (Venice, 11-12 October 2021), § 31, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2019\)024-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2019)024-e).

¹⁵ The “appellate review” is possible “where an essential evidence or circumstance has emerged which have not previously been introduced due to circumstances beyond control and which may reasonably affect the decision”.

¹⁶ Which is a pan-European body composed of the representative of the national judiciaries.

Committee of Ministers requires a second degree of jurisdiction in those matters, which is absent in the Armenian system.

Finally, the Venice Commission has reiterated that, the Commission itself on several occasions recommended having an appeal against the decisions of the judicial councils in disciplinary matters¹⁷, although acknowledging that this appeal may be of a limited scope. Thus, in an opinion on North Macedonia the Venice Commission recommended that “the Appeal Council should be able to annul decisions of the Judicial Council only in cases of gross errors in the application of procedural and substantive law”¹⁸, and in an opinion on the Bosnia and Herzegovina it noted that the appeal to a court of law against the decisions of the High Judicial and Prosecutorial Council (HJPC) was required “at least for cases where a serious penalty was imposed”¹⁹. In the October 2017 opinion, the Venice Commission stressed that “in exercising its appellate review the appellate body should act with deference to the [Judicial Council] as regards the establishment of the factual circumstances and interpretation of the relevant rules of conduct”²⁰.

The issue on envisaging the possibility in the Judicial Code for appealing the decisions on subjecting a judge to disciplinary liability has also been raised in **reports of the Group of States against Corruption (GRECO) of the Council of Europe**. In particular, it was stated in *the 2015 GRECO Evaluation Report on Armenia “Fourth Evaluation Round: Corruption prevention in respect of members of parliament, judges and prosecutors”* that “the GRECO evaluation team has misgivings about the fact that unsuccessful candidates have no possibility to challenge the decisions made by the Council of Justice in recruitment and promotion procedures. ... GRECO recommends reforming the procedures for the recruitment, promotion and dismissal of judges, including by ... ensuring that any decisions in those procedures can be appealed to a court”²¹. “... The GRECO evaluation team wishes to stress **how important it is that judges are accorded the right to appeal against disciplinary decisions to a court of law** as opposed to the current situation where only the Council of Justice — which is to “act as a court” – is involved and judges are not given the possibility to challenge the decisions of the Council of Justice”²².

Further, it was stated in *the 2021 GRECO Interim Compliance Report on Armenia “Fourth*

¹⁷ CDL-AD(2015)037-e, First Opinion on the Draft Amendments to the Constitution (Chapters 1 to 7 and 10) of the Republic of Armenia endorsed by the Venice Commission at its 104th Plenary Session (Venice, 23-24 October 2015), § 153, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2015\)037-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2015)037-e).

¹⁸ CDL-AD(2019)008-e, North Macedonia - Opinion on the Draft Law on the Judicial Council, adopted by the Venice Commission at its 118th Plenary Session (Venice, 15-16 March 2019), § 35 [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2019\)008-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2019)008-e).

¹⁹ CDL-AD(2014)008-e, Opinion on the draft Law on the High Judicial and Prosecutorial Council of Bosnia and Herzegovina adopted by the Venice Commission at its 98th Plenary Session (Venice, 21-22 March 2014), § 110, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2014\)008-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2014)008-e).

²⁰ CDL-AD(2017)019-e, Armenia - Opinion on the Draft Judicial Code, adopted by the Venice Commission at its 112th Plenary Session (Venice, 6-7 October 2017), § 151, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2017\)019-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2017)019-e).

²¹ Greco Eval IV Rep (2015) 1E, page 34.

²² Greco Eval IV Rep (2015) 1E, page 42. Joint Opinion of the Venice Commission and the Directorate of Human Rights of the Council of Europe on the “Draft Law Amending and Supplementing the Judicial Code of Armenia (Evaluation System for Judges)”, §§ 84 and 128.

Evaluation Round: Corruption prevention in respect of members of parliament, judges and prosecutors” that “... GRECO concludes that proper appeal mechanisms for decisions on the recruitment and promotion of judges have been put in place, while this is not the case in respect of dismissals”²³. In the mentioned report the GRECO reiterates its concern that it is still not possible to challenge a disciplinary decision (including dismissal) before a court and concludes that ***this part of the recommendation remains partly implemented***²⁴.

In the context of the above-mentioned positions of reputable international institutions, the need to introduce an appeal against the decisions of the SJC on subjecting a judge to disciplinary liability or terminating the powers of a judge does not give rise to any doubt.

At the same time, the study of the reports and opinions of the Venice Commission on the appeal of decisions in disciplinary matters allows to identify the following main criteria regarding the appeal of decisions in disciplinary matters, which can serve a guideline for introducing relevant regulations governing the appeal of decisions of the SJC:

- the appeal should be allowed to the parties concerned – the complainant and the judge concerned²⁵;
- it should be ensured that the functions of initiating disciplinary proceedings, imposing a disciplinary sanction and deciding on appeals are clearly separated; for example, a person who triggered a disciplinary case should not participate in the subsequent decision-making²⁶;
- it is very important that the composition of the appellate judicial body be predetermined by law²⁷;
- the creation of a special appellate panel for disciplinary matters within the Supreme Judicial Code may be considered²⁸;
- the appeal instance should be qualified as a “court”, i.e. provide for sufficient procedural guarantees and be institutionally independent²⁹. The safeguards set forth in Article 6 of the

²³ GrecoRC4(2021)15, § 38:

²⁴ GrecoRC4(2021)15, §§ 39, 43:

²⁵ CDL-AD(2014)006, Joint opinion of the Venice Commission and the Directorate of Human Rights (DHR) of the Directorate General of Human Rights and Rule of Law of the Council of Europe, and of the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) on the draft law on disciplinary liability of judges of the Republic of Moldova, §§81, 84:

²⁶ CDL-AD(2017)019, Opinion on the Draft Judicial Code of Armenia, §§150-151; CDL-AD(2019)008, Opinion on the Draft Law on the Judicial Council of North Macedonia, §§34-35; CDL-AD(2014)006, Joint opinion of the Venice Commission and the Directorate of Human Rights (DHR) of the Directorate General of Human Rights and Rule of Law of the Council of Europe, and of the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) on the draft law on disciplinary liability of judges of the Republic of Moldova, §§82, 83:

²⁷ CDL-AD(2015)042, Opinion on the Laws on the Disciplinary Liability and Evaluation of Judges of "The Former Yugoslav Republic of Macedonia", §96.

²⁸ CDL-AD(2017)019-e, Armenia - Opinion on the Draft Judicial Code, adopted by the Venice Commission at its 112th Plenary Session (Venice, 6-7 October 2017), §150.

²⁹ CDL-AD(2017)019, Opinion on the Draft Judicial Code of Armenia, §§150-151; CDL-AD(2019)008, Opinion on the Draft Law on the Judicial Council of North Macedonia, §§34-35; CDL-AD(2014)006, Joint opinion of the Venice Commission and the Directorate of Human Rights (DHR) of the Directorate General of Human Rights

European Convention on Human Rights should be set out in a different article and apply to all stages of disciplinary proceedings³⁰;

- every appeal against disciplinary proceedings should prevent the decision from becoming final until the appeal is determined³¹.

Naturally, the above-mentioned main criteria regarding the appeal of the decisions in disciplinary matters will be equally applicable to the examination of appeals against the decisions on termination of powers of a judge, taking into account also the recommendation of the Venice Commission according to which the rules related to disciplinary proceedings should be fully applicable to the termination of powers of a judge.

In the context of regulating the appeal of decisions of the SJC rendered in disciplinary proceedings, it is also important to study the main approaches to this issue in the European states. The study of international practice regarding the appeal of the decisions rendered in disciplinary matters shows that the possibility of appealing the decisions rendered in disciplinary proceedings is available in the vast majority of European countries. In particular, appeal mechanisms are available in Austria³², Germany³³, France³⁴, Georgia³⁵, Latvia³⁶, Lithuania³⁷,

and Rule of Law of the Council of Europe, and of the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) on the draft law on disciplinary liability of judges of the Republic of Moldova, §§82, 83:

³⁰ CDL-AD(2014)032, Joint Opinion of the Venice Commission and the Directorate of Human Rights (DHR) of the Directorate of Human Rights and the Rule of Law (DGI) of the Council of Europe, on the draft Law on making changes to the Law on disciplinary Liability and disciplinary Proceedings of Judges of General Courts of Georgia, §50 :

³¹ CDL-AD(2014)006, Joint opinion of the Venice Commission and the Directorate of Human Rights (DHR) of the Directorate General of Human Rights and Rule of Law of the Council of Europe, and of the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) on the draft law on disciplinary liability of judges of the Republic of Moldova, §§81, 84:

³² Standards for disciplinary proceedings and liability of judges, https://www.ency.eu/images/stories/pdf/GA/Hague/encj_report_minimum_standards_v_adopted_ga_june_2015.pdf

³³ Standards for disciplinary proceedings and liability of judges, p. 39, https://www.ency.eu/images/stories/pdf/GA/Hague/encj_report_minimum_standards_v_adopted_ga_june_2015.pdf.

³⁴ Standards for disciplinary proceedings and liability of judges, p. 39, https://www.ency.eu/images/stories/pdf/GA/Hague/encj_report_minimum_standards_v_adopted_ga_june_2015.pdf.

³⁵ Organic Law "On General Courts", <https://matsne.gov.ge/en/document/view/90676?publication=34>.

³⁶ Law "On Judicial Disciplinary Liability", <https://likumi.lv/doc.php?id=57677>.

³⁷ Law "On Courts", <https://www.teismai.lt/en/courts/legal-acts/655>, The Judicial Council Resolution "On Approval of Regulations of the Court of Honor", <https://www.teismai.lt/en/self-governance-of-courts/judicial-court-of-honour/about-court/664>.

Estonia³⁸, Bulgaria³⁹, Croatia⁴⁰, Ukraine⁴¹, Moldova⁴², Norway, etc. Meanwhile, in *the Czech Republic and the Netherlands*⁴³, for example, decisions on subjecting a judge to disciplinary liability are rendered by the Supreme Court, and there is no appellate review available for such decisions in these countries.

The comparative study of practices allows to identify the following main approaches that are available on the main components of appeal systems:

1. The body subjecting to disciplinary liability and the body conducting appellate reviews on the decisions on subjecting to disciplinary liability.

Everyone in **Austria** has the right to file a disciplinary complaint. Disciplinary complaints are being examined by the bodies provided for by the Austrian Judges and Public Prosecutors Service Act. Thus, each of the 4 Appellate Courts (Vienna, Graz, Linz, and Innsbruck) functions as a **Disciplinary Court (Panel)** for the judges of the other appellate courts.

The Austrian Act provides that the Courts of Appeal have Staff panels which comprise 5 members (the President and the Vice-President of the courts and the three judges of the courts). The mentioned Staff panel of the Court of Appeal constitutes a "disciplinary court" for a period of five years consisting of senior judges and judges of the Court of Appeal. In addition, an investigating judge is being appointed from among the judges of the Court of Appeal. The Disciplinary Court of the Court of Appeal shall hold sessions with a bench of three senior judges, one of which shall preside over the Court sessions. The preliminary examination is being conducted by the Investigation judge who cannot be a member of the Disciplinary court. During the disciplinary proceedings the **Disciplinary prosecutor** defends the interests of the public service. The Disciplinary prosecutor is accountable to the Ministry of Justice, the highest administrative body representing the interests of the public service.

The Disciplinary court may issue a reprimand, impose a fine (amounting to the equivalent of up to 5 months' earnings), render a decision on transferring the judge to another place of employment without entitlement to relocation fees, and finally, may render a decision on removing the judge from office.

³⁸ Courts Act, <https://www.riigiteataja.ee/en/eli/514022014001/consolide>.

³⁹ Judiciary System Act https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/workinggroup4/2012-August-27-29/Responses_NVs_2012/20120419_Bulgaria_English_8.pdf.

⁴⁰ Law of the Republic of Croatia "On the State Judiciary Council", http://www.vsrh.hr/CustomPages/Static/HRV/Files/Legislation_Law-State-Judiciary-Council.pdf, The Constitutional Act on the Constitutional Court of the Republic of Croatia, <https://www.sabor.hr/en/constitutional-act-constitutional-court-republic-croatia>.

⁴¹ Laws "On the Supreme Council of Justice", "On the judiciary and the status of judges", https://kodeksy.com.ua/ka/zakony_ukraini.htm.

⁴² Laws of the Republic of Moldova "On Disciplinary Liability of Judges" https://www.legis.md/cautare/getResults?doc_id=130335&lang=ru. "On the Superior Council of Magistracy", https://www.legis.md/cautare/getResults?doc_id=130334&lang=ru.

⁴³ Standards for disciplinary proceedings and liability of judges, p. 39, https://www.ency.eu/images/stories/pdf/GA/Hague/encj_report_minimum_standards_v_adopted_ga_june_2015.pdf.

In **Poland**, according to the Law "On the Common Courts system", the Disciplinary Commissioner acts as an authorised prosecutor in the disciplinary court in the cases of judges of the Court of Appeal, as well as presidents and vice-presidents of district courts. In all other cases the authorised prosecutor acts as a Deputy Disciplinary Commissioner. The Disciplinary Commissioner is elected by the National Council of the Polish Judiciary from among the candidates nominated by the General Assembly of Appellate Judges. The Disciplinary Commissioner carries out his/her activities within the National Council of the Polish Judiciary. The term of powers of the Disciplinary Commissioner is four years. The Boards of the Courts of Appeal elect Deputy Disciplinary Commissioners for each complaint, and the Boards of District Courts elect deputies from among the judges of the given court for each district. The term of powers of Deputy Disciplinary Commissioners is two years.

The **Disciplinary Commissioner** institutes disciplinary proceedings at the respective request of the Minister of Justice, the Presidents of the Court of Appeal or the District Court and the Board of the Court of Appeal or the District Court, at the request of the National Council of the Judiciary or on his or her own initiative. The Disciplinary Commissioner detects the circumstances necessary for establishing the elements of unlawful conduct and receives explanations from the judge, except for the cases when the provision of such explanations is not possible.

After grounds for initiating disciplinary proceedings are established following the mentioned investigation, the **Disciplinary Commissioner** initiates disciplinary proceedings and brings written charges against the judge concerned. At the same time, the **Disciplinary Commissioner** asks the First President of the Supreme Court to indicate the competent disciplinary court that shall examine the case as a lower instance. The mentioned lower court must be indicated within seven days. The Disciplinary Commissioner is always a judge and acts as a disciplinary prosecutor during the disciplinary proceedings.

The following Disciplinary courts are established to conduct disciplinary proceedings against judges:

(1) for judges of lower instances — at the Courts of Appeal;

(2) for judges of higher instances — at the Supreme Court.

Disciplinary proceedings on judges of the Supreme Court shall be conducted exclusively by the Supreme Court.

All judges of the Courts of Appeal (except for the Presidents and Disciplinary Commissioners of the Courts of Appeal), as well as all judges of the Supreme Court (except for the Presidents and the Disciplinary Commissioner of that court) are disciplinary judges who render decisions during disciplinary proceedings.

The composition of the Disciplinary Court shall be determined by drawing lots from among the judges of the given court, provided, however, that at least one of the judges of the Disciplinary Court must have always examined criminal cases. The judge having always examined criminal cases and having the longest tenure shall be the Presiding Judge of the Disciplinary Court.

Disciplinary penalties are the following:

- (1) admonition;
- (2) reprimand;
- (3) dismissal from office;

(4) transferring to another place of service.

Only the accused judge and the Disciplinary Commissioner participate in the disciplinary proceedings at the Disciplinary Court.

The appeal against the decision of the Disciplinary Court shall be heard by the Disciplinary Court of higher instance. The Disciplinary Court for higher instance shall be the **Supreme Court**, which shall hear the disciplinary cases through an appeal procedure.

In Belgium, the body having the right to initiate disciplinary proceedings is, as a rule, **the head of the body** which the judge concerned is a member to. Thus, for example, disciplinary proceedings against a judge of the Court of First Instance are initiated by the Chairperson of the Court of First Instance. Disciplinary proceedings against the Chairperson of the Court shall be initiated by the Chairperson of the **superior court**. For instance, where disciplinary proceedings have to be initiated against the Chairperson of the Court of First Instance, the Chairperson of the Court of Appeals shall act as the initiating body. Elements of disciplinary violation are established either by the body having initiated disciplinary proceedings, or they shall be presented to it by the Prosecutor at the relevant court or citizens or the High Council of Justice. It should be stressed that the Minister of Justice, just like the High Judicial Council, may forward the complaints received from citizens to the body having the right to initiate proceedings. The body having initiated the disciplinary proceedings shall, for the organisation of the disciplinary proceedings, appoint a Magistrate who shall examine the disciplinary proceedings initiated on the basis of the complaint within a three-month period.

Minor disciplinary penalties are imposed by the person having initiated the disciplinary proceedings. Major disciplinary penalties may be applied only by the Disciplinary Tribunal. Judges of the Disciplinary Tribunal are appointed by the General Assembly of Judges of the Court of First Instance and Court of Appeal. The competent chamber of the Disciplinary Tribunal usually consists of two judges of the Disciplinary Tribunal and one Assessor who must be a judge of the same Court. Assessors are elected by the General Assembly of Courts and appointed by the Chairpersons of the courts. In the Kingdom of Belgium, there are two courts examining disciplinary proceedings initiated against judges — the Courts of Namur and Ghent the decisions whereof can be appealed **through an appeal procedure in the Court of Brussels**.

In Georgia, in order to decide on the issue of initiating disciplinary proceedings against a judge, the preliminary investigation and examination into the disciplinary case shall be carried out by *the Independent Inspector of the High Council of Justice of Georgia* (Independent Inspector). The Independent Inspector shall submit his or her opinions and views to the High Council of Justice of Georgia. On the basis of the examination of the grounds for initiating disciplinary proceedings, *the High Council of Justice* decides on the issue of initiating disciplinary proceedings against the judge concerned. Based on the outcomes of the disciplinary proceedings, the High Council of Justice may render a decision on subjecting the judge to disciplinary liability or terminating the proceedings. By the decision on subjecting the judge to disciplinary liability, the High Council of Justice also appoints its representative, who supports the disciplinary accusation at the Disciplinary Board of Judges of General Courts of Georgia. Disciplinary proceedings against judges of the General Courts of Georgia are being conducted by the **Disciplinary Board of [Judges of] General Courts of Georgia** (consisting of 5 members, out of which 3 are judge members elected by the General Assembly of Judges, and 2 are non-judge members elected by the Parliament). The appeal against the decision on subjecting to disciplinary liability shall be heard by the **Disciplinary Chamber of the Supreme Court of Georgia**.

In Latvia, proceedings concerning disciplinary misconduct by judges of district (municipality) courts, regional courts or the Supreme Court are conducted by the **Judicial Disciplinary Board**, which is a judicial autonomic body. Disciplinary proceedings against a judge may be initiated by the

Chief Justice of the Supreme Court, the Minister of Justice, the Chairperson of the regional court, the Chairperson of the district court, the Commission of Judicial Ethics. Decisions of the Judicial Disciplinary Board may be appealed to the **Disciplinary Court**, which shall hear the appeal with a panel of 3 judges.

In Lithuania, disciplinary complaints are filed to the Judicial **Court of Honour**, which is an autonomic authority of courts and hears disciplinary cases of judges and motions of judges regarding the protection of a judge's honour. Disciplinary complaints against judges are submitted by the *Judicial Ethics and Disciplinary Commission*, which is also an autonomic judicial body. It consists of 7 members; 2 candidates are appointed by the President, 1 — by the Speaker of the Seimas, and 4 — by the Judicial Council. Decisions of the Court of Honour may be appealed to the **Supreme Court** within ten days after its adoption. The appeal is being heard by a bench of three judges of the Supreme Court. In case of appealing against the decision of the Court of Honour, the disciplinary penalty takes effect from the date of rendering the decision by the Supreme Court and it is valid for one year.

In Estonia, the *Chairperson of the Supreme Court* shall have the right to initiate disciplinary proceedings against all judges, the *Chancellor of Justice* — against all judges, the *Chairperson of the District Court* — against the judges of the Courts of First Instance under his or her judicial constituency, the *Chairperson of the Court* — against the judges of the same court, *the Supreme Court en banc (with a full composition)* — against the Chairperson of the Supreme Court. Disciplinary proceedings are being conducted by the **Disciplinary Chamber of the Supreme Court** consisting of five judges from the Supreme Court, five judges from the District Court and five judges from the Courts of First Instance. For examining the disciplinary case of a judge, the **Chairperson of the Disciplinary Chamber shall form a College consisting of five members** — three members of the Disciplinary Chamber of the Supreme Court, one judge from the District Court and one judge from the Court of First Instance. The College of five members of the Disciplinary Chamber shall hear the disciplinary case in a court session. Appeals against the decision of the Disciplinary Chamber shall be adjudicated by the Supreme Court *en banc*. The decision of the Disciplinary Chamber having been appealed **to the Supreme Court en Banc** takes effect after the Supreme Court *en banc* renders a decision.

In Bulgaria, a recommendation with regard to subjecting a judge to disciplinary liability may be submitted by the respective administrative head, *the Inspectorate for the Supreme Judicial Council, not less than 1/5 of the members of the Supreme Judicial Council, the Ministry of Justice*. Disciplinary penalties are applied by the **Supreme Judicial Council**. Decisions of the Supreme Judicial Council may be appealed to the Supreme Administrative Court. The appeal shall not suspend the execution of the decision, unless otherwise held by the Supreme Administrative Court. The appellate review is being conducted *by the College* of the Supreme Administrative Court with a bench of *three judges* within one month after being received at the court. The decision adopted by a bench of 3 judges of the Supreme Administrative Court may be appealed on merits to the Supreme Administrative Court' College of 5 judges. The College consisting of 5 members examines the appeal on merits.

In Ukraine, disciplinary proceedings initiate upon an application (disciplinary application) on the disciplinary misconduct by a judge. Everyone has the right to submit an application on the disciplinary misconduct by a judge. Disciplinary proceedings against judges are conducted by the **Disciplinary Chambers of the High Council of Justice** (Disciplinary Chamber). Disciplinary Chambers are established by the High Council of Justice which consists of 21 members. Each Disciplinary Chamber is composed of at least four High Council of Justice members. The number of Disciplinary chambers and the number of members in each chamber shall be established by the

decision of the High Council of Justice.

The High Council of Justice shall ensure that at least half of the members of each Disciplinary Chamber or, where this is not possible, the majority of the members of each Disciplinary Chamber are judges or retired judges. Where necessary, the High Council of Justice may decide to involve a member of one disciplinary chamber in the activities of another chamber or delegate the authority of rendering such a decision to the Chairperson of the High Council of Justice. An appeal against the decision of the Disciplinary Chamber may be filed **exclusively to the High Council of Justice**. Moreover, during the appeal proceedings, those members of the Supreme Council of Justice who were members of the Disciplinary Chamber having rendered the challenged decision shall not participate in the examination of the appeal, except for the member of the Disciplinary Chamber who acted as a Rapporteur in the disciplinary case. The latter has the right to make a speech at the session of the High Council of Justice and present the report on the decision of the Disciplinary Chamber.

In Moldova, the Disciplinary Board — which is an independent body — deals with issues of subjecting the judge to disciplinary liability, carries out the investigation of the disciplinary cases filed against judges and renders a decision in disciplinary matters. In the Republic of Moldova, a complaint regarding the alleged disciplinary misconduct by a judge may be submitted by:

- (a) any person whose rights have been violated as a result of the misconduct by the judge;
- (b) members of the Superior Council of Magistracy;
- (c) the Commission for Evaluation of Activities of Judges;
- (d) the Judicial inspectorate;
- (e) the Ministry of Justice.

The disciplinary case is adjudicated by the Disciplinary Board *en banc*. Decisions of the Disciplinary Board may be **appealed to the Superior Council of Magistracy** through the Board. Decisions rendered by the Superior Council of Magistracy may be appealed to the Appeals Chamber of Chisinau (the Appeals Chamber is the supreme court that ensures the uniform application of laws for all instances). In the Appeals Chamber, the examination of the appeal filed against the decision of the Superior Council of Magistracy is carried out with a bench of 5 judges.

In Moldova, the decision of the Inspector on rejecting the application on subjecting a judge to disciplinary liability can also be reviewed; it may be appealed to the Disciplinary Board. For the examination of the appeal Disciplinary Board panels composed of 3 members — 2 of which shall be judges and 1 — a representative of civil society — are being established upon the decision of the Disciplinary Board.

In Croatia, the State Judicial Council is vested with the right to conduct disciplinary proceedings against judges and establish the fact of a disciplinary misconduct. Disciplinary proceedings are conducted by the **Disciplinary Committee composed of three members of the Council**, unless a decision has been rendered that the examination shall be carried out by the Council *en banc*. Members of the Committee shall be appointed by the Chairperson of the Council.

Disciplinary proceedings may be initiated upon the request of the following bodies:

- by Chairperson of the Court, Chairperson of the superior court, Chairperson of the Supreme Court and the Minister of Justice — against a judge;
- by Chairperson of the superior court, Chairperson of the Supreme Court and the Minister of Justice — against the Chairperson of the Court;

- by General Assembly of the Supreme Court or the Government of the Republic of Croatia — against the Chairperson of the Supreme Court.

Decision on the disciplinary liability may be appealed to the **Constitutional Court** of the Republic of Croatia. Moreover, the decision on the appeal shall be adopted by the majority of votes of the bench of six judges of the Council of the Constitutional Court. Where the Constitutional Court finds that the appeal is grounded, it abolishes the decision challenged and returns the case to the National Judicial Council for re-consideration. It is noteworthy that after returning the case to the National Judicial Council, the latter has to render another decision and be guided by the holdings of the Constitutional Court regarding the violation of the constitutional rights of the applicant.

2. Decisions subject to appeal

In Austria, Georgia, Latvia, Lithuania, Poland, Belgium, Bulgaria, Ukraine and Moldova, decisions on imposing a disciplinary penalty and subjecting to disciplinary liability can be subject to appeal.

In Estonia and Croatia, only the decisions on applying a disciplinary penalty can be subject to appeal.

3. Persons having the right to challenge the decisions concerned

In Georgia, the parties to the disciplinary proceedings — the judge and the High Council of Justice — have the right to challenge the decision concerned.

In Austria, where the disciplinary investigation is pending and the Disciplinary court renders a final decision on the case, the decision may be appealed to the Supreme Court by the disciplinary respondent and the Disciplinary Prosecutor.

In Latvia, only the accused judge shall have the right to challenge the decision.

In Lithuania, the accused judge and the body having filed a disciplinary action — i.e. the Judicial Ethics and Disciplinary Commission — shall have the right to challenge the decision.

In Poland, the decisions of the disciplinary courts rendered in lower instances, as well as the decisions and orders finalising the proceedings may be challenged by the accused judge, the Disciplinary Commissioner, as well as the National Judicial Council and the Minister of Justice.

In Estonia, only the accused judge shall have the right to challenge the decision.

In Belgium, minor disciplinary penalties applied by the disciplinary body may be appealed by the accused judge. The decisions of the Disciplinary Court on major disciplinary penalties may be appealed by the accused judge and the body having initiated the disciplinary proceedings.

In Bulgaria, the judge subjected to disciplinary liability or the party having submitted a recommendation for subjecting the judge to disciplinary liability — i.e. the administrative head, the Inspectorate for the Supreme Judicial Council, not less than 1/5 of the members of the Supreme Judicial Council, the Ministry of Justice — shall have the right to file an appeal.

In Ukraine, the right to appeal before the High Council of Justice the decision rendered by the Disciplinary Chamber based on the disciplinary proceedings shall belong to the accused judge. The person having submitted a disciplinary complaint shall also have the right to appeal before the High Council of Justice the decision rendered by the Disciplinary Chamber based on the outcomes of the disciplinary proceedings in case the Disciplinary Chamber allows such an appeal.

In Moldova, the judge and the party having submitted a disciplinary complaint to the Disciplinary Board about the alleged misconduct by a judge (which may be the person whose rights have been violated as a result of the misconduct by the judge), members of the Superior Council of Magistracy, the Commission for Evaluation of Activities of Judges, the Judicial inspectorate, the Ministry of Justice shall have the right to file an appeal.

In Croatia, only the judge concerned shall have the right to file an appeal.

4. Specifics of appellate reviews of the decision on the issue of subjecting a judge to disciplinary liability.

In Georgia, the principles of examination of appellate reviews are regulated by law. The Disciplinary Chamber examines the appeal collegially. The Disciplinary Board considers disciplinary proceedings impartially and objectively following the principles of adversarial proceedings and equality of arms. The Disciplinary Chamber session shall be closed, and the information related to the disciplinary case hearing shall be confidential, except for cases provided for by law. Members of the Disciplinary Chamber and the person having brought a disciplinary charge shall be obliged to keep the confidentiality of information. The Disciplinary Chamber shall review the decision of the Disciplinary Board within the scope of the appeal and its decisions rest upon the factual and legal grounds of the decision, as well as the lawfulness of the punishment imposed thereby. The violation of legal procedures may serve as a basis for quashing the decision only when it has led to rendering a wrong decision on merits. The Disciplinary Chamber may re-qualify the conduct of a judge as a disciplinary misdemeanour and find the judge guilty of committing another disciplinary offence under the law where the factual elements of the disciplinary charge include it. The Disciplinary Chamber shall render a decision on abolishing the decision of the Disciplinary Board, where the latter has unlawfully acquitted the judge or unlawfully terminated the disciplinary action against him or her or unlawfully subjected him or her to disciplinary liability and applied a disciplinary penalty.

In Ukraine, there is a direct regulation according to which the examination of an appeal against the decision of the Disciplinary Chamber on subjecting a judge to disciplinary liability shall be carried out through the procedure prescribed by law for examination of a disciplinary case. Appealing the decision of the Disciplinary Chamber on imposing a disciplinary penalty, shall in its turn, suspend the decision on imposing a disciplinary penalty except for the cases when the Disciplinary Chamber has rendered a decision on terminating the powers of a judge as a measure of liability and that decision has been appealed. In such cases, the judge shall be removed from function before the Supreme Council of Justice renders a decision on abolishing the decision in the disciplinary case. The examination of an appeal against the decision of the Disciplinary Chamber on subjecting a judge to disciplinary liability shall be carried out under the procedure prescribed for examination of a disciplinary case.

In Moldova, where the Superior Council of Magistracy grants the appeal and renders a new decision, the regulations applicable to the Disciplinary Board regarding the procedure for examining the disciplinary cases and the content of decisions shall become applicable to the Superior Council of Magistracy.

5. Decisions upon appellate reviews

In Georgia, the Disciplinary Chamber is competent to adopt decisions on upholding or changing the decision of the Disciplinary Board, abolishing it and adopting a new decision or quashing the decision of the Disciplinary Board and sending the case for a re-consideration.

In Estonia, the Supreme Court *en banc* may decide not to change the decision of the Disciplinary Chamber, change it and subject the judge to liability for committing a minor disciplinary offence by mitigating the imposed disciplinary penalty, refuse to make substantial changes and mitigate the

disciplinary penalty, quash the decision and acquit the judge concerned.

In Ukraine, the High Council of Justice may adopt one of the following decisions on upon an appellate review:

(1) completely abolishing the decision of the Disciplinary Chamber on subjecting the judge to disciplinary liability and terminating the disciplinary proceedings;

(2) partially abolishing the decision of the Disciplinary Chamber on subjecting the judge to disciplinary liability and adopting a new decision;

(3) completely or partially abolishing the decision of the Disciplinary Chamber on not subjecting the judge to disciplinary liability and adopting a new decision;

(4) changing the decision of the Disciplinary Chamber and imposing another type of disciplinary penalty;

(5) approving the decision of the Disciplinary Chamber with no changes.

In Moldova, on the basis of an appellate review, the Superior Council of Magistracy may leave the decision of the Disciplinary Board unchanged or grant the appeal and render a new decision.

Thus, the comparative study of practices reveals that:

1. In 9 of the countries studied (Georgia, Latvia, Lithuania, Estonia, Bulgaria, Austria, Poland), the appeal is filed to the supreme judicial instance, in 1 — to the Court of Appeal (Belgium), in 1 — to the Constitutional Court (Croatia), in 2 — to Superior Council of Magistracy (Ukraine, Moldova), in particular:

(1) in 9 of the countries (Georgia, Latvia, Lithuania, Bulgaria, Moldova, Croatia, Austria, Belgium, Poland) the bodies applying disciplinary liability and those reviewing the appeals are **different**, while in Estonia and Ukraine they are compositions including certain number or the whole of the **same body**, respectively;

2. in 8 of the countries studied (Georgia, Lithuania, Bulgaria, Ukraine, Moldova, Austria, Belgium, Poland) the judge and the body having initiated the proceedings or having submitted a recommendation for initiating proceedings have the right to file an appeal, and in 3 — only the judge have such a right (Latvia, Estonia, Croatia).

3. in countries where only the judge has the right to appeal, the decisions on applying a disciplinary penalty can be subject to appealing, and in countries where the body having initiated the proceedings has the right to appeal, too — the decisions on dismissing the disciplinary proceedings can also be subject to appealing;

4. in 2 of the countries studied (Georgia, Ukraine) it is directly prescribed that the examination of the appeal shall be carried out in observance of the rules established for the examination of disciplinary proceedings;

5. The following decisions are rendered upon an appeal review: (1) on upholding the decision, changing it or abolishing it; (2) on adopting a new decision; (3) on remanding the case;

6. in 5 of the countries studied, the decision rendered upon an appellate review is final and may not be reviewed (Georgia, Latvia, Lithuania, Croatia, Estonia), while it can be reviewed in 3 countries (Bulgaria, Ukraine, Moldova).

State	Entity having competence to institute disciplinary proceedings	Body subjecting to disciplinary liability	Body where to the appeal is filed	Entities having the right to file an appeal	Decisions subject to appeal	Decisions rendered as a result of examination of the appeal	Peculiarities of examining the appeal
1. Georgia	Supreme Council of Justice	Disciplinary Board of General Courts	Disciplinary Chamber of the Supreme Court	1. Supreme Council of Justice 2. Judge	Decisions on terminating the disciplinary proceedings, declaring the judge guilty in committing a disciplinary offence and subjecting him or her to disciplinary liability and penalty, declaring the judge guilty in committing a disciplinary offence, subjecting the judge to disciplinary liability and applying to the judge with a private letter of assignment, acquitting the judge. ⁴⁴	On upholding, amending, lifting the decision of Disciplinary Council, adopting a new decision, quashing the decision and forwarding the case for a new examination.	Volume of examination. The Disciplinary Chamber shall review the decision of the Disciplinary Council within the scope of appeal both from the perspective of fact and law, as well as from the perspective of lawfulness of the punishment prescribed. The examination of the case by the Disciplinary Council in violation of legal procedures may serve as a basis for quashing the decision only in case when it has led to adoption of a wrong decision, in essence, under the case. The Disciplinary Chamber shall examine the appeal in accordance with principles provided for examination of the case by the Disciplinary Council. The decision of the

⁴⁴ The decision on suspending the disciplinary proceedings shall not be subject to appeal.

							Disciplinary Chamber shall be final and shall not be subject to appeal.
2. Latvia	1. Chairperson of the Supreme Court 2. Minister of Justice 3. Chairpersons of courts 4. Judicial Discipline Commission	Judicial Discipline Committee	Disciplinary Court	Judge	Decisions on imposing a disciplinary penalty, submitting a recommendation for removing the judge from position. ⁴⁵	On upholding the decision and rejecting the appeal, quashing the appeal and terminating the disciplinary proceedings, making amendments to the decision, unless it has a deteriorating effect on the person filing an appeal.	The Disciplinary Court shall examine the appeal with a panel of no less than 3 judges. The appeal shall be examined at an open court session unless the Disciplinary Court decides otherwise. The examination of the case shall be attended by the person filing an appeal and instituting the disciplinary proceedings or his or her representative. The Disciplinary Court shall adopt a decision on the appeal by majority of votes. In case of a tie, the Chairperson of the Disciplinary Court shall have the casting vote. The decision of the Disciplinary Court shall enter into force upon notification and shall not be subject to appeal.
3. Lithuania	The Judicial Ethics and	Court of	Supreme	1. The Judicial Ethics and	Decisions on rejecting the disciplinary claim,	Decisions rendered based on	The appeal shall be examined by a judicial

⁴⁵ Decisions on forwarding to the General Prosecutor's Office the materials of Disciplinary case for adopting a decision on instituting a criminal case, on completing the disciplinary proceedings shall not be subject to appeal.

	Disciplinary Commission ⁴⁶	Honor	Court	Disciplinary Commission 2. Judge	refusing to examine the disciplinary claim, imposing a disciplinary penalty, submitting a recommendation to the President of the Republic or the Seimas as prescribed by law on removing the judge from the office, submitting a recommendation to the President of the Republic or applying to the Seimas with application on instituting a process of impeachment against the judge.	examination of the ordinary appeals.	collegium consisting of three judges of the Supreme Court. In case of appealing against the decision of the Court of Honor, the disciplinary penalty shall take effect from the date of rendering the decision of the Supreme Court and shall be valid for one year.
4. Estonia	Chairperson of the Supreme Court, Chancellor of Justice, Chairperson of the District Court, Chairperson of the District Court, the Supreme Court en banc	The collegium consisting of 5 members chosen by the Chairperson of the Disciplinary Chamber of the Supreme Court	Supreme Court en banc	Judge	Decision on imposing a disciplinary penalty.	On refusing to amend the decision, subjecting to liability or amending the decision and committing a milder disciplinary offence and mitigating the imposed disciplinary penalty, refusing to make essential amendments and mitigating the disciplinary penalty, quashing the decision and	

⁴⁶ The disciplinary claim shall be instituted to Court of Honor.

						acquitting the judge.	
5. Bulgaria	The Supreme Judicial Council with not less than 1/5 of members of the relevant Administrative Head, Inspectorate of the Supreme Judicial Council, Supreme Judicial Council, upon recommendation of the Ministry of Justice	The Supreme Judicial Council, and in some cases also the Administrative Head of Judge, Minister of Justice	Supreme Administrative Court	1. Judge 2. The party having submitted a recommendation on subjecting the judge to disciplinary liability	Decisions of the Supreme Judicial Council on imposing a disciplinary penalty, refusing the recommendation on imposing a disciplinary penalty	Decisions rendered as a result of examination of the ordinary appeals	The appeal shall not suspend the execution of the decision, unless the Supreme Administrative Court renders another decision. The appeal shall be examined by the Collegium of the Supreme Administrative Court, consisting of three persons, within one month from the date it is admitted to the court. The decision made by the panel of 3 judges of the Supreme Administrative Court may be appealed, as a matter of law, to the Collegium of the Supreme Administrative Court sitting in a panel of 5 members. The Collegium consisting of 5 members shall examine the appeal from the perspective of law.
6. Ukraine	Disciplinary Chamber of the Supreme Court of Justice based on the application on disciplinary	Disciplinary Chamber involving at least four members of the Supreme	Supreme Council of Justice	1. Judge 2. Person having filed a disciplinary application	Decisions on subjecting the judge to disciplinary liability or refusing to subject the judge to disciplinary liability. ⁴⁷	(1) completely abolishing the decision of the Disciplinary Chamber on subjecting the judge	Appealing the decision of the Disciplinary Chamber on imposing a disciplinary penalty, shall in its turn, suspend the decision on imposing a disciplinary

⁴⁷ Decision on instituting a disciplinary case and refusing the institution shall be adopted by the Disciplinary Chamber of the Supreme Council of Justice and shall not be subject to appeal.

<p>offence of a judge disciplinary application), upon initiative of the Disciplinary Chamber or High Qualification Commission of Judges of Ukraine</p>	<p>Council of Justice</p>				<p>to disciplinary liability and terminating the disciplinary proceedings;</p> <p>(2) partially abolishing the decision of the Disciplinary Chamber on subjecting the judge to disciplinary liability and adopting a new decision;</p> <p>(3) completely or partially abolishing the decision of the Disciplinary Chamber on rejecting to subject the judge to disciplinary liability and adopting a new decision;</p> <p>(4) amending the decision of the Disciplinary Chamber and imposing another type of disciplinary penalty;</p> <p>(5) approving the decision of the Disciplinary</p>	<p>penalty. Exceptions shall be the cases when the Disciplinary Chamber has imposed the measure of liability of terminating the powers of the judge as a penalty and that decision has been appealed. In such cases, the judge shall be removed from administering justice until the Supreme Council of Justice does not render a decision on cancelling the decision in the disciplinary case. It is noteworthy that one of the grounds for dismissing the appeal in a disciplinary case and returning the appeal under the legislation of Ukraine shall also be filing it without the permission of the Disciplinary Chamber. A time period of 60 days shall be envisaged for examination of the appeal with an option to extend it or another 60 days. Moreover, during the appeal, those members of the Supreme Council of Justice, who were members of the Disciplinary Chamber having rendered the</p>
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						<p>Chamber without any amendment.</p> <p>challenged decision, shall not participate in the examination of the appeal, except for the member of the Disciplinary Chamber, who was the reporter in the disciplinary case. The latter shall have the right to make a speech at the session of the Supreme Council of Justice and present the report on the decision of the Disciplinary Chamber. The examination of an appeal against the decision of the Disciplinary Chamber on subjecting the judge to disciplinary liability shall be carried out through the procedure prescribed by law for examination of a disciplinary case. Decision of the Supreme Council of Justice rendered as a result of considering the appeal against the decision of the Disciplinary Chamber may be appealed and abolished only on the following grounds:</p> <ul style="list-style-type: none">(1) the panel of the Supreme Council of Justice having rendered the decision did not have the authority to render it;(2) the decision has not
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							<p>been signed by any of the members of the Supreme Council of Justice that has participated in adoption hereof;</p> <p>(3) the judge has not been duly notified on the sitting of the Supreme Council of Justice;</p> <p>(4) the grounds and substantiations — whereby the Supreme Council of Justice has come to relevant conclusions — provided for by the law whereby the judge is subjected to disciplinary liability, have not been referred to in the decision. At the same time, the decision of the Supreme Council of Justice, which has been adopted as a result of examination of the appeal against decision of the Disciplinary Chamber, a judge, against whom the relevant decision has been rendered, and person having filed a disciplinary application, shall have the right to appeal before the court, where the decision of the Supreme Council of Justice has been adopted based on the appeal of the</p>
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							atter. Moreover, where the court abolishes the decision of the Supreme Court of Justice adopted as a result of examination of the appeal against decision of the Disciplinary Chamber, the Supreme Council of Justice shall again examine the relevant disciplinary case. In this case also the Supreme Council of Justice shall carry out the re-examination of the case according to the general procedure established for the examination of the disciplinary case.
7. Moldova	The Judicial Inspectorate based on application of the following entities — (a) person, whose rights have been violated as a result of an act committed by the judge; (b) members of the Superior Council of Magistracy; (c) Commission for evaluation of activities of	Disciplinary Collegium	Superior Council of Magistracy	1) Person having filed an application for instituting disciplinary proceedings 2) Judicial Inspectorate 3) Judge	On recording the disciplinary violation and applying a disciplinary penalty, recording the disciplinary violation and terminating the disciplinary proceedings, where the time periods of subjecting to disciplinary liability have expired, on dismissing the disciplinary proceedings, where a disciplinary violation has not been made, in case of withdrawing the application filed on	The Superior Council of Magistracy shall a) uphold the decision of the Disciplinary Collegium; b) grant the appeal and render a new decision.	The decisions rendered by the Superior Council of Magistracy may be appealed by persons having filed an application to the Appeals Chamber of Chisinau (the Appeals Chamber is the supreme court instance that ensures the uniform application of laws to all court instances), by the Judicial Inspectorate or the judge against whom it has been rendered. In the Appeals Chamber, the examination of the appeal filed against the decision of

	judges; (d) upon own initiative; (d) Ministry of Justice.				withdrawing the disciplinary proceedings, when the parties do not claim the examination of application on the merits.		the Superior Council of Magistracy shall be carried out by a panel of 5 judges. Duration of the examination may not last more than 30 days. The decisions of the Appeals Chamber shall be final and enter into force from the date of adoption.
8. Croatia	Disciplinary Committee consisting of three members of the State Judicial Council upon request of the chairperson of court, chairperson of superior court, Chairperson of the Supreme Court and Minister of Justice, General Assembly of the Supreme Court or Government of the Republic of Croatia.	Disciplinary Committee consisting of three members of the State Judicial Council	Constitutional Court	Judge	Decisions on imposing a disciplinary penalty.	Where the Constitutional Court finds that the appeal is grounded, it shall abolish the decision challenged and return the case to the National Judicial Council for the purpose of resuming the examination.	
9. Poland	The Disciplinary Commissioner shall commence the proceedings upon relevant	The following disciplinary courts shall be established to examine the	Supreme Court	1. Accused Judge 2. Disciplinary Commissioner	Decisions rendered as a result of disciplinary proceedings.		

	request of the Minister of Justice, Chairperson of the Court of Appeal or the Chairperson of the District Court and the collegium of the Court of Appeal or the District Court, at the request of the National Council of the Judiciary or upon his or her own initiative.	Disciplinary cases against judges: (1) for judges of lower instances — in courts of appeal; (2) for judges of superior instances — in the Supreme Court. Disciplinary cases of the judges of the Supreme Court shall be examined only by the Supreme Court.		3. National Judicial Council 4. Minister of Justice			
10. Austria	Disciplinary investigator based on the appeal of any person	Disciplinary collegiums formed in courts of appeal	Supreme Court	1. Disciplinary respondent 2. Disciplinary prosecutor	Decisions rendered as a result of disciplinary proceedings.		
11. Belgium	Chairperson of relevant court upon his or her own initiative, based on the information submitted by	Body having instituted disciplinary proceedings and the Disciplinary Court	Disciplinary Court of Appeal	1. Body having instituted disciplinary proceedings 2. Judge	Decisions rendered as a result of disciplinary proceedings.		

	prosecutor of the relevant court or citizens or the Supreme Council of Justice						
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Acceptable approaches of main components of the SJC Appeal System on the issue of subjecting the judge to disciplinary liability based on the study of positions and comparative experience of the Venice Commission

1. Body subjecting to disciplinary liability and the body examining the appeal against the decision rendered as a result of the examination of the issue on subjecting to disciplinary liability.

Attaching importance to the necessity for envisaging legal mechanism for appealing against the SJC decisions on subjecting a judge to disciplinary liability and terminating the powers thereof, it is also necessary to take into account that the choice of appeal model must take into consideration the peculiarities of the status of this body under the domestic legislation, primarily the Constitution. In accordance with Article 173 of the Constitution, the Supreme Judicial Council is an independent state body that guarantees the independence of courts and judges. Article 175 of the Constitution provides for the SJC powers, which include deciding on the issue of subjecting the judge to disciplinary liability.

The Constitutional Court has addressed the issue of appealing against the decisions pertaining to specifics of the status of the SJC and on subjecting a judge to disciplinary liability in courts. Thus, by Decision SDO-1488 of 15 November 2019 the Constitutional Court has expressed the following legal position: "Within the context of current constitutional regulations the **typical manner of appealing against decisions of the Supreme Judicial Court on subjecting the judge to disciplinary liability may cause a number of hindrances in practice both in terms of applicability and effectiveness.** In addition, such a regulation would not stem from the constitutional status and mission of the Supreme Judicial Council as an independent state body in ensuring the operational efficiency of the judicial system.

At one point, when assessing the constitutionality of competence of the Council of Justice to render a final act when acting as a court, the Constitutional Court stated that "The important circumstance of methodological significance is that this body,

composed mostly of practising judges and also academic lawyers, within the scope of its constitutional competence and upon the grounds prescribed by law, shall evaluate how faithful to his or her oath is the official authorised thereby to act in the capacity of a judge and how he or she performs his or her official duties.

The Constitutional Court found that this system is accomplished in guaranteeing performance of its functions from the perspective of intrasystem sustainability and ensuring effectiveness. ***It does not fall beyond the scope of performing the constitutional function of assessing the fulfilment of official duties of a judge, proficiency thereof, which is the exclusive competence of this body.*** In this regard, vesting in the courts supervisory authority would generally make the existence of the Council of Justice pointless as an independent body in the judiciary system exercising independent competence reserved exclusively thereto under the Constitution" (SDO-1063).

Re-affirming the legal position expressed in the cited decision and in addition to it, the Constitutional Court — taking into consideration the functional role of an independent state body of the Supreme Judicial Council in ensuring the independence of courts and judges, as well as the constitutional functions of other judges included in the judicial system — confirmed that ***there is no legal possibility in conditions of current constitutional regulations to have the lawfulness of the decisions of that body on subjecting the judge to disciplinary liability reviewed by any other judicial authority of the Republic of Armenia.*** The exclusive authority to decide on the issue of subjecting a judge to disciplinary liability by virtue of Article 175 of the Constitution is vested in the Supreme Judicial Council. In such conditions, where any court in the Republic of Armenia reviews the decision of the Supreme Judicial Council rendered with regard to subjecting a judge to disciplinary liability and makes a new judicial act as a result

thereof, for instance, quashes and changes the decision of the Supreme Judicial Council rendered while acting as a court, in the end it will turn out that the specific court has decided on the issue of subjecting a judge to disciplinary liability.

Thus, in the light of the above-stated the Constitutional Court has confirmed that within the context of current constitutional and legal regulations no legal mechanism is envisaged for appealing against the decision of the Supreme Council of Justice on the issue of subjecting a judge to disciplinary liability in any court in the Republic of Armenia, since it will contradict the status of the Supreme Judicial Council as an independent constitutional body. Besides, reviewing such decisions and hence deciding on the issue of subjecting a judge to disciplinary liability is beyond the scope of the constitutional functions of the courts in the Republic of Armenia.

In the same case, the Constitutional Court also considers its legal position expressed in Decision SDO-1063 to be applicable *mutatis mutandis*, according to which "... In the current judicial system provided for by the Constitution of the Republic of Armenia, appealing against such decisions through a judicial procedure outside the existing legal frameworks may have connection to the provisions of part 1 of Article 92 of the Constitution of the Republic of Armenia. It is conditioned by circumstance that the composition of the Council of Justice includes mainly practising judges from different levels of the judicial system of the Republic of Armenia, including the Court of Cassation of the Republic of Armenia. In such conditions, in the general jurisdiction and specialised courts system is not envisaged such a court instance the judges whereof would be higher in their status than those of the Court of Cassation of the Republic of Armenia. In this regard, within the scope of the given case the Constitutional Court considers it necessary to also refer to point 5 of its Decision SDO-719 of 28 November 2007 whereby the Constitutional Court has found unacceptable to consider the applications on challenging the actions (inaction) of the chairperson of the same court or judges of higher courts by the judge of the same court or that of lower state and government level. The Constitutional Court finds that a similar approach may also be equally applicable to the relevant decisions of the Council of Justice."

Thus, the Constitutional Court has stated that the decisions rendered with regard to subjecting a judge to disciplinary liability and terminating the powers of a judge fall within the exclusive competence of the SJC, and this being said, vesting the competence of reviewing the SJC decisions in any other court would be in conflict with the status of such an independent constitutional body as the Supreme Judicial Council and would generally make the existence of the Council impractical as an independent body in the judiciary system autonomously exercising its powers vested exclusively therein under the Constitution.

Within the context of the position of the Constitutional Court presented above, the positions of the Venice Commission and comparative experience, the Ukrainian model might be considered as acceptable for the Republic of Armenia in appealing against the decisions of the High Council of Justice on subjecting a judge to disciplinary liability and terminating the powers thereof, under which examination of a disciplinary case is carried out and the decision to impose disciplinary liability is rendered by the Disciplinary Chamber consisting of 4 judges selected from among the members of the High Council of Justice, and appeals against the decision of the latter shall be examined by the High Council of Justice.

In addition, it is necessary to highlight the fact that the Venice Commission has stated in its 2019 Opinion "On the legal framework in Ukraine governing the Supreme Court and judicial self-governing bodies" that: "According to the LHCJ [Law on High Council of Justice] of 2016, disciplinary proceedings against judges are within the powers of the HCJ and will be carried out by disciplinary chambers, the majority of which be made up of judges. In general, the existing procedure on judicial discipline was considered to be aligned with applicable standards, and, if correctly implemented, it should provide a more

adequate balance between judicial independence and accountability.⁴⁸

2. Decisions subject to appeal and entities having the right to file an appeal

The analysis of comparative experience shows that both the decisions on subjecting a judge to disciplinary liability and decisions on refusing to subject a judge to disciplinary liability can be appealed against in most of the countries. Moreover, the right to file an appeal is vested both in the judge, and the entity having instituted proceedings or having submitted a motion for instituting proceedings, which seems to be a logical approach, since the latter are the parties to disciplinary proceedings. Thus, both the decisions of the SJC on subjecting a judge to disciplinary proceedings and the decisions on rejecting the motion on subjecting a judge to disciplinary liability must be appealable, and the judge subjected to disciplinary liability and the party having instituted disciplinary proceedings must have the right to file an appeal.

3. Peculiarities of examination of appeals against the decision rendered with regard to subjecting a judge to disciplinary liability.

When defining the peculiarities of examination of appeals against the decision rendered with regard to subjecting a judge to disciplinary liability, the position of the Venice Commission that the instance where an appeal is filed must be qualified as "court", i.e. provide for sufficient procedural guarantees and be institutionally independent must be decisive.⁴⁹ The safeguards set forth in Article 6 of the European Convention on Human Rights should be set out in a different article and apply at all stages of disciplinary proceedings⁵⁰. Accordingly, examination of appeals against decisions rendered with regard to subjecting a judge to disciplinary liability must be carried out for examination of the issue of subjecting a judge to disciplinary liability in observance of the main principles and guarantees prescribed by the Judicial Code. In this regard, the observation of the Venice Commission to the end that any appeal against disciplinary proceedings should prevent a decision from becoming final until the appeal is examined.⁵¹ Thus, Decision of the SJC on the issue of subjecting a judge to disciplinary liability must not take effect before a decision is rendered as a result of examination of the appeal filed against such a decision.

⁴⁸ CDL-AD(2019)027-e, Ukraine - Opinion on the Legal framework in Ukraine governing the Supreme Court and judicial self-governing bodies, adopted by the Venice Commission at its 121st Plenary Session, Venice, 6-7 December 2019, § 63:

⁴⁹ CDL-AD(2017)019, Opinion on the Draft Judicial Code of Armenia, §§150-151; CDL-AD(2019)008, Opinion on the Draft Law on the Judicial Council of North Macedonia, §§34-35; CDL-AD(2014)006, Joint opinion of the Venice Commission and the Directorate of Human Rights (DHR) of the Directorate General of Human Rights and Rule of Law of the Council of Europe, and of the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) on the draft law on disciplinary liability of judges of the Republic of Moldova, §§82, 83:

⁵⁰ CDL-AD(2014)032, Joint Opinion of the Venice Commission and the Directorate of Human Rights (DHR) of the Directorate of Human Rights and the Rule of Law (DGI) of the Council of Europe, on the draft Law on making changes to the Law on disciplinary Liability and disciplinary Proceedings of Judges of General Courts of Georgia, §50 :

⁵¹ CDL-AD(2014)006, Joint opinion of the Venice Commission and the Directorate of Human Rights (DHR) of the Directorate General of Human Rights and Rule of Law of the Council of Europe, and of the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) on the draft law on disciplinary liability of judges of the Republic of Moldova, §§81, 84:

4. Decisions rendered as a result of examination of the appeal.

The analysis of comparative experience shows that decisions on upholding, amending, abolishing the appealed decision are rendered as a result of examination of the appeal in the vast majority of states. An important circumstance in determining the scope of decisions rendered as a result of examination of appeals against decision of the SJC on the issue of subjecting a judge to disciplinary liability is the fact of examination of the appeal and rendering the decision by the Supreme Judicial Council itself, which is vested by the Constitution with the exclusive authority to subject a judge to disciplinary liability. Accordingly, all the decisions determining the outcome of disciplinary proceedings must be rendered upon examination of the appeals against the decision on the issue of subjecting a judge to disciplinary liability. Accordingly, as a result of the examination of the appeal, it must be possible to render decisions on upholding the appealed decision, subjecting the judge to disciplinary liability, refusing to subject the judge to disciplinary liability, amending the disciplinary liability imposed.

The acceptable approaches to main components of the appeal system against the SJC decisions on the issue of subjecting a judge to disciplinary liability are also equally applicable to appealing against the decision on terminating the powers of a judge.

As to the requirements for the report on subjecting to disciplinary liability and the possibility of joining the disciplinary proceedings under one proceedings by the body that has instituted disciplinary proceedings, it must be noted the experience of a number of countries shows that the report on subjecting to disciplinary proceedings must include information on the person submitting the report, on the relevant judicial case and the judge, factual circumstances underlying the report. Similar requirements are prescribed by relevant laws of Moldova⁵², Kyrgyzstan⁵³, as well as Ukraine⁵⁴. The legislation of Moldova also provides for joining the disciplinary proceedings instituted against a judge under one proceedings and considering two or more motions on subjecting to disciplinary proceedings. Particularly, in accordance with part 3 of Article 19 of the Law of Moldova *on Disciplinary Liability of Judges*, where several applications are filed against one judge, they all are considered within the scope of the same proceedings. *The Law on Disciplinary Liability and Disciplinary Proceedings of Judges of General Courts of Georgia* also has a similar regulation, which states that the independent inspector, as well as the Supreme Council of Justice of Georgia are entitled to join two or more disciplinary cases instituted against the same judge on various grounds under one proceedings upon their decision.⁵⁵ Similar regulations exist in the legislations of Ukraine⁵⁶ and Bulgaria.⁵⁷

The practice of joining under the same proceedings the instituted disciplinary proceedings and two or more motions submitted on subjecting to disciplinary liability will make it possible to consider the issue of subjecting to disciplinary liability for several disciplinary violations only once, within the scope of one and the same proceedings without overburdening either the judge or the Supreme Judicial Council. Such regulation will also eradicate the practice of constantly

⁵² "On Disciplinary Liability of Judges" https://www.legis.md/cautare/getResults?doc_id=130335&lang=ru.

⁵³ Law of Kyrgyzstan "On Judicial Self-Government Bodies" <http://tartip.sot.kg/post/zakon-o-distsiplinarnoj-komissii>

⁵⁴ Laws "On the judiciary and the status of judges", https://kodeksy.com.ua/ka/zakony_ukraini.htm

⁵⁵ Article 11, "Law "On Disciplinary Liability and Disciplinary Proceedings of Judges of General Courts of Georgia" <https://www.matsne.gov.ge/ru/document/view/16774?publication=23>

⁵⁶ See Ukraine - Law on the High Council of Justice, article 49

[https://www.venice.coe.int/webforms/documents/?pdf=CDL-REF\(2020\)067-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-REF(2020)067-e)

⁵⁷ See Standards for disciplinary proceedings and liability of judges, page 80, https://www.ency.eu/images/stories/pdf/GA/Hague/encj_report_minimum_standards_v_adopted_ga_june_2015.pdf

instituting proceedings against the same judge on different grounds.

Expected outcome

As a result of the adoption of the Draft:

1. Requirements on reports for instituting disciplinary proceedings against a judge will be defined.
2. An appeal mechanism shall be envisaged against the decisions rendered as a result of examination of the issue of subjecting a judge to disciplinary liability, as well as against decisions on terminating powers of the judge.
3. Examination of the matter on subjecting a judge to disciplinary liability will be carried out by a panel composed of 4 members of the Supreme Judicial Council. The composition of the Supreme Judicial Council dealing with the issue of subjecting a judge to disciplinary liability will be different for each of the disciplinary proceedings and will include two members elected by the General Assembly of Judges and two members elected by the National Assembly.
4. It will be feasible for the body instituting disciplinary proceedings and the Supreme Judicial Council to join the instituted disciplinary proceedings and two or more motions submitted on subjecting to disciplinary liability under the same proceedings.
5. The decisions on subjecting a judge to disciplinary liability will take effect in one month from the date of promulgation.
6. The Supreme Judicial Council will take over the examination of the appeal against the decision rendered with regard to subjecting a judge to disciplinary liability and will include in its composition those members not involved, within the scope of disciplinary proceedings concerned, in the examination of the issue of subjecting the judge to disciplinary liability.
7. The Supreme Judicial Council will carry out the examination of the appeal against the decision rendered with regard to subjecting a judge to disciplinary liability through the same procedure and with guarantees prescribed for examination of the issue of subjecting the judge to disciplinary liability.
8. Two-months period will be envisaged for examination of the appeal, as a result of which the Supreme Judicial Council will be able to cancel the decision of subjecting a judge to disciplinary liability and refuse the motion on subjecting a judge to disciplinary liability, impose another type of disciplinary penalty, cancel the decision on rejecting the motion on subjecting a judge to disciplinary liability and subject a judge to disciplinary liability and uphold the decision.
9. The decision of the Supreme Judicial Council rendered as a result of examination of the appeal will be final and non-appealable.

Institutions and persons involved in elaboration of drafts

The Draft has been elaborated by the "Centre for Legislation Development and Legal Research" Foundation of the Ministry of Justice.

Need to adopt other legal acts in connection with adoption of laws, and revenue and expenditure implications in the state budget

There is no need for adopting other legal acts in connection with adoption of the

Constitutional Law "On making amendments and supplements to the Constitutional Law "Judicial Code of the Republic of Armenia". No revenue or expenditure implications are planned in connection with adoption of the Constitutional Law "On making amendments and supplements to the Constitutional Law "Judicial Code of the Republic of Armenia".

Relation to strategic documents

The Draft stems from point 5.3 "Judicial Reforms" of the 2021-2026 Government Programme, as well as from the 2022-2026 Strategy of Judicial and Legal Reforms of the Republic of Armenia and its Action Plan approved by Decision of the Government No 1133-L of 21 July 2022. In particular, among actions set forth under Objective No 4 ("Ensuring continuity of reforms in the judicial system") of the Ministry of Justice as enshrined in Appendix 1 to the above-mentioned Decision, is creation of a legal framework for appealing against the decisions of the Supreme Judicial Council rendered