

## ARMENIA

<b>I. Highlighting of dysfunctions within a court<sup>1</sup></b>
<p>1. Is there an organised system allowing to detect dysfunctions within a court?</p> <p>If there are any dysfunctions within a court the parties of the trial may turn to the Minister of Justice and an offence should be solved by him. The Minister of Justice in his turn entrusts the checking department of the Ministry to investigate the case. And if there are any arguments to punish the guilty the Minister represents the complaint to the Judicial Council. The Judicial Council take disciplinary action against judges. The president of the court of appeals shall chair the meetings of the Judicial Council when the Council is considering disciplinary action against a judge. The President of the Republic, the Minister of Justice and the Prosecutor General shall not take part in these meetings.</p>
<b>II. Methods of investigation and analysis of dysfunctions</b>
<p>2. Which are the methods used to check these dysfunctions ? (audit, evaluation, on location visit, etc..)</p> <p>Those dysfunctions may be detected only by the parties of the trial. There isn't any special agency to find the dysfunctions.</p>
<p>3. Once a dysfunction has been detected, what methods of analysis are used ?</p> <p>It has been already mentioned that the Minister of Justice may entrusts the checking department to investigate and to analyse the dysfunctions within a court.</p>
<b>III. The structure in charge of investigating and analysing the dysfunction</b>
<p>4. Is this structure centralised or decentralised (in this case, is it internal or external to the court) ?</p> <p>The structure of investigating and analysing the dysfunction is external to the court. The process of investigating and analyzing occurs at the Ministry of Justice and finishes at the Judicial Council.</p>
<p>5. Under what authority is it placed ?</p> <p>It is placed under authority of the judicial branch of government</p>
<p>6. How is this structure set up ? Who appoints its members ?</p>

<sup>1</sup>The questionnaire does not intend to address disciplinary matters

The Judicial Council includes fourteen members appointed by the President of the Republic for a period of five years, including two legal scholars, nine judges and three prosecutors. The President of the Republic preside the Judicial Council, the Minister of Justice and the Prosecutor General are the vice presidents of it. Three Council members are appointed each from among the judges of the courts of first instance, the courts of review and the court of appeals. The general assembly of judges submits three candidates by secret ballot for each seat allocated to judges. The Prosecutor General submits the names of candidates for the prosecutors' seats in the Council. The Judicial Council has its own staff including civil servants, who are appointed by the director of the staff.

#### 7. What is its jurisdiction ?

The Judicial Council: a) upon the recommendation of the Minister of Justice, drafts and submits for the approval of the President of the Republic the annual list of judges, in view of their competence and professional advancement, which is used as the basis for appointments.

b) upon the recommendation of the Prosecutor General, drafts and submits for the approval of the President of the Republic the annual list of prosecutors, in view of their competence and professional advancement, which is used as the basis for appointments.

c) proposes candidates for the presidency of the court of appeals, the presidency and judgeship positions of its chambers, the presidency of the courts of review, courts of first instance and other courts. It makes recommendations about the other judicial candidates proposed by the Ministry of Justice;

d) makes recommendations regarding the candidates for Deputy Prosecutor proposed by the Prosecutor General, and the candidates for prosecutors heading operational divisions in the Office of the Prosecutor.

e) makes recommendations regarding training programs for judges and prosecutors;

f) makes recommendations regarding the removal from office of a judge, the arrest of a judge, and the initiation of administrative or criminal proceedings through the judicial process against a judge;

j) takes disciplinary action against judges. The president of the court of appeals chairs the meetings of the Judicial Council when the Council is considering disciplinary action against a judge. The President of the Republic, the Minister of Justice and the Prosecutor General do not take part in these meetings;

h) expresses its opinion on issues of pardons when requested by the President of the Republic.

The operational procedures of the Judicial Council shall be prescribed by law.

#### **IV. Follow up given to the analysis in order to remedy the dysfunction**

8. What form will be adopted for the conclusions of the structure of investigation and analysis ?

The Judicial Council makes a decision on the topic. The decision is made by the majority of the members, who are present at the session.

9. Who is the addressee of the conclusions of the structure of investigation and analysis ?

The decision is sent to the Minister of Justice who in his turn dispatchs it to the President of the court.

10. What means are available for the structure in order to find a remedy to the dysfunction ?

There are several means for repairing the dysfunction. The first one is that the participants of the trial have an opportunity to appeal against the judge's illegal actions. They can turn to the president of the court and demand the solution of the problem. The second one is that the checking department of the Ministry of Justice also can check up the documents which are made during the trial.

11. If the investigation structure does not monitor the implementation of the recommendations, which structure is entrusted with their implementation?

As it has been already mentioned, the Judicial Council makes a decision, it doesn't give a recommendation on the topic. It means that the decision has an imperative enforcement and should be executed by its addressee.

## **V. Efficiency of mechanisms**

12. Is the functioning of this structure evaluated ?

Of course this structure needs some improvements but on the other hand it is evaluated as there are no other mechanisms to detect the dysfunctions within a court.

13. What improvements could be made ?

The mechanism of detecting the dysfunctions is complicated enough. In order to make the competent authorities pay attention on the dysfunctions, complaints and remarks should pass through many instances. So it would be better to have an independent state agency which would investigate and analyse the dysfunctions and undertake appropriate measures.