

JUSTIFICATION
FOR
ADOPTING THE LAWS OF THE REPUBLIC OF ARMENIA
“ON MAKING CHANGES AND AMENDMENTS TO THE JUDICIAL CODE OF THE
REPUBLIC OF ARMENIA “
AND
“ON MAKING CHANGES IN THE ADMINISTRATIVE PROCEDURE CODE OF THE
REPUBLIC OF ARMENIA “

1. Necessity

1.1 The courts, lawyers and the public have the vital interest in having efficient and professional judiciary. The activities envisaged in RA Judicial Reforms Program (JRP) for 2012-2016 are aimed at reaching that goal.

JRP 2012-2016 envisages “developing *objective criteria for evaluating* the performance of judges and *clarifying criteria for the promotion of judges*, based also on the performance evaluation for 2013 September”. The implementation deadline for the “Computerized System for the Evaluation of Judges” is planned as of the first decade of March 2014. It is also envisaged to **test** the system of performance evaluation of judges and fill in the gaps (1 year, January – December 2014). To apply the system of performance evaluation of judges in all courts of RA (January 2015).

The need for the introduction of the system of evaluation of judges is established by various international documents. Paragraph 42 of the Recommendation of the EC Committee of Ministers (2010)¹² on Independence, Efficiency and Responsibilities of the Judges (“Judges: Independence, Efficiency and Responsibilities”) stipulates that “with a view to contributing to the efficiency of administration of justice and continuing improvement of its quality, member states may introduce systems for the assessment of judges by judicial authorities”.

System of assessment of judges is an institute that developed in the recent decades, which is now largely implemented in Europe (Belgium, France, Netherlands, Italy, Austria, Croatia etc.) and the USA.

The aim of assessment of judges is:

1. Promote the self-analysis of the judges,
2. Identify and indicate to the judges the ways to improve their performance,
3. Support the selection of the best candidates judges for career promotion,
4. Support to increase the public confidence in judiciary.

In terms of performance evaluation of judges, the Draft is based on principles and approaches enshrined in various international documents and analysis, including:

1. Kyiv Recommendations on “Judicial Independence in Eastern European, South Caucasus and Central Asia: Challenges, Reforms and Way Forward” in 2010, Part 27-31,
2. American Bar Association: “Black Letter Guidelines for the evaluation of judicial performance”, 2005, which were initially developed for the US, but due to active international advisory activities of the American Bar Association are widely applied in other countries, too.
3. Brief Report of the International Union of Judges on the Systems of Performance Evaluation of Judges, 2006.
4. Comparative Study of the Professional Evaluation of Judges and Prosecutors implemented within the scope of EU Twinning Program, 2007¹.
5. Methodology on Evaluation of Judges approved by the Chairmen of Courts (or as the provisional translation of the document says “Presidents of the Councils of Judges in the Republic of Croatia”) of Croatia, 2007².
6. Recommendations of the working meeting on the Introduction of the System of Evaluation of Judges in Moldova, conducted by the OSCE ODIHR.

The experience of systems of evaluation of judges in Belgium, France, Netherlands, Italy, Spain, Austria, Croatia, USA, as well as the study of the results of OSCE ODIHR advisory activities introducing the system of evaluation of judges in Moldova have been taken into consideration while developing the Draft. Moreover, another study of the system of evaluation of judges have been implemented by AMERIA CJSC and Human Dynamics –Public Sector Consulting Company through the order of the Judicial Reforms PIU, which has also been presented in the Report on Technical Assistance and Advisory Service to the Council of Justice and Judicial Department with the purpose of Institutional Reforms, published in May 2010.

Analysis of International Practice

There are two main documents defining the internationally accepted and applicable criteria in the area of evaluation of judges: Kyiv Recommendations and the above-mentioned Guidelines of the American Bar Association.

Kyiv Recommendations stress that the evaluation of judges should qualitative, focusing on the skills necessary for being a judge. In this respect, the Recommendations stress the following criteria for evaluation:

¹

https://www.google.am/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CCUQFjAA&url=http%3A%2F%2Fwww.csm1909.ro%2Fcsms%2Flinkuri%2F06_01_2011_38069_ro.doc&ei=FO34UZieC4nCtQbm-IHICg&usg=AFQjCNEjuUPgLj7ijw7cOx5_o8C3_Qunig&bvm=bv.49967636.d.Yms

² <http://pak.hr/cke/propisi.%20zakoni/en/MethodologyForEvaluationofJudges/Methodology.pdf>

- **Professional competence**, assessing the knowledge of the judges in judicial, substantial and reasoning areas, ability to conduct trials, capacity to write reasoned documents;
- **Personal competence**, assessing the ability of the judge to cope with the work load, openness to application of new technologies, ability to make decisions;
- **Social competence**, assessing the ability to mediate and demonstrate respect to the parties;
- **Administrative competence**, when the judge might be appointed for an administrative position and needs to have competence to lead and manage.
- **Quantitative assessment**, assessing the efficiency of the judge, which shall become basis for the self-improvement of the judges and should not be the main element for the performance evaluation of judges.

According to Kyiv Recommendations, stemming from the international criteria for the independence of judges they shall in no way be evaluated based on the content of their verdict and the decisions for an individual case shall not become a basis for a sanction. This means that in the process of evaluation the judicial cases should be studied and observed not content wise, but in terms of formality (Para 27 and 28).

According to the Recommendations, the professional evaluation criteria should be clearly spelled out, transparent and uniform. The Law shall provide the fundamental criteria. The precise criteria for, timing and mechanisms of the evaluations shall be set out further in regulations (Para 29).

Other judges shall mainly conduct the evaluation of judges. The Chairpersons of the courts shall not have the exclusive competencies to evaluate judges, and in parallel to their role, it should be complemented by a group of judges from the same or other courts. While evaluating the diligence of the judge, his/her capacities of respectful attitude to the parties and ability to maintain judiciary rules should also take into consideration the opinions of those external parties who regularly deal with the judge (e.g. advocates, lawyers etc.). (Para 30).

The evaluations should include the review of the written decisions of the judge, as well as observation of a trial conducted by the judge.

The evaluation should be transparent. It is necessary to listen to the judge's opinion, too. The judges should be informed of the results of the evaluation and have opportunities to appeal (Para 31).

American Bar Association (ABA) Guidelines provide the following criteria for the evaluation of judges:

- **Legal knowledge**, assessing the ability of the judge to reason the judicial cases, the ability to keep the knowledge of substantive law and procedural rules updated. The ABA, in line with Kyiv Recommendations also emphasizes that the evaluation should not interfere into the internal beliefs and principles of the judge to make decisions.

- **Impartiality and integrity**, observing the ability of the judge to avoid unethical behavior, to treat people with dignity, impartiality, honesty; the ability to make difficult decisions.
- **Communication skills, which** is the ability of the judge to clear and logical verbal and written communication.
- **Professionalism and temperament**, when the judges should be able to maintain self-control, to promote public trust in the court and be polite.
- **Administrative competencies**, which assess the punctuality of the judges, his/her appearance in the court in timely manner and prepared, ability to maintain the control over the court room, ability to make decisions promptly, ability to maintain the court procedures and timing, capacities to improve the quality of justice administration and use new technologies.:

In Belgium the first evaluation is made a year after the appointment of the judge and every three years afterwards. The judges are evaluated on the scale *excellent, good, sufficient, and insufficient*.

Details of the evaluation remain within the judiciary and only the final scores are sent to the Ministry of Justice.

Criteria subject to evaluation

There are three sets of criteria in Belgium, where Group A is more important than Group B, and Group B is more important than Group C.

Group A

- Judiciary knowledge: knowledge of substantive and procedural law, quality of judicial reasoning;
- Efficiency and communication competencies;
- Impartiality

Group B

- Collegiality: ability to work in team, share experience with the colleagues, etc.
- Self-control

Group C

- Willingness to learn
- Ability to adapt
- Progressive thinking, readiness to assume responsibilities³.

³ Each criteria of evaluation is available in the “Comparative study of the professional evaluation of judges and prosecutors, Twining RO 2007/IB/JH-25TL” , pg 29-31.

While evaluating the judge each group has its scoring system.

Group A	Group B	Group C
Excellent =+6	Excellent =+4	Excellent =+2
Good = +3	Good = +2	Good = +1
Sufficient =0	Sufficient =0	Sufficient =0
Insufficient = -3	Insufficient = -2	Insufficient = -1

As a result, the judge received the following scores:

Excellent = +22
Good = from +11 up to +22
Sufficient = from -11 to +11
Insufficient = from -22 to -11

Consequences of the evaluation

- 1) Training to improve competencies
- 2) Identification of the imperfections in the functioning of the judiciary system
- 3) Disciplinary proceedings against the judge, with retaining the salary or bonus for up to 6 months.

The evaluation does not directly affect the career promotion of the judge.

In France the evaluation takes place every two years, with the exception of judges of the Court of Cassation and the Chairpersons of the Court of Appeal. In case of necessity, the evaluation can be conducted more frequently, if there are issues regarding the judge's [professional activity. The evaluation is always combined with the opportunity of the judge to express him/herself and present a report. The judges are graded on the scale of *excellent, good, sufficient and insufficient*.

Criteria Subject to Evaluation

The judges are evaluated on four (4) criteria:

- 1) General professional competencies
 - a. Ability to make decision
 - b. Ability to listen and exchange opinions
 - c. Ability to adapt to new situations, including legal, technological and other changes.
- 2) Legal and technical competencies
 - a. Ability to apply his/her knowledge, including the ability to analyze facts and apply rights
 - b. Ability to conduct trials, including clear verbal communication during the trial, ability to maintain calmness (self-control) etc.;

- c. Ability to develop instructions.
- 3) Administrative skills
 - a. Ability to undertake concrete actions, to demonstrate initiative, to obtain collegial agreement,
 - b. Ability to define targets and organize human resource.
- 4) Professional involvement
 - a. Efficiency and effectiveness of work,
 - b. Participation in trainings,
 - c. Quality of professional relationships with other structures⁴.

Consequences of the Evaluation

Positive evaluation is a mandatory condition for the career promotion of the judge. Based on the information revealed during the performance evaluation the judge can be dismissed, but as a result of separate disciplinary legal proceeding.

In Italy, all the judges of the first instance (magistrates) are subject to evaluation every four (4) years, up to the seventh positive evaluation.

The Criteria for the Evaluation of Judges are:

- 1) Professional competencies
 - a. Awareness of the recent developments in the legal system,
 - b. Quality of the reasoning of Judicial Acts,
 - c. Ability to conduct court hearing (Session),
 - d. Ability to make use of (information) technologies
- 2) Performance (**laboriousness**)
 - a. Number of solved cases, including the level of complexity,
 - b. Time allotted to settle the judicial cases.
- 3) Diligence
 - a. Timely appearance in the court in the hearings,
 - b. Maintaining deadlines established for judiciary cases,
 - c. Number of hearings held,
 - d. Participation in the activities devoted to the development of judiciary (legislation)
- 4) Commitment
 - a. Willingness to substitute the absent judges,
 - b. Frequency of participation in the trainings.

The collaboration given to solve the organizational problems of the judicial office, upon the request of the Court President or Chief Prosecutor.

⁴ Comparative study of the professional evaluation of judges and prosecutors, Twining RO 2007/IB/JH-25TL, pg 37

The judges are evaluated as positive or not positive.

Consequences of the Evaluation

The evaluation is directly linked to the career promotion of the judge. Thus, three (3) consecutive positive evaluations are a mandatory condition to be appointed as Chairperson of the Court; five (5) consecutive positive evaluations are mandatory condition for the appointments in higher Courts.

In the Netherlands, the evaluations are carried on annual basis. An important role is given to the mutual collegial evaluation, through which reciprocal training and experience sharing is taking place. The evaluation of judges in the Netherlands is based on the EFQM model, which evaluates the performance of the judge as compared to other judges.

Consequence of the Evaluation

- 1) Revealing the shortcomings of the functionality of the judiciary,
- 2) Dismissing the non-diligent judges from the system.

In Germany, the judges are evaluated once in four (4) years, on the following scale:

- 1-2 score – below average
- 3-6 scores – average
- 7-10 scores – above average
- 11-14 scores – substantially above average
- 15-16 scores – excellent

Criteria for the Evaluation of the Judges are:

- 1) Quality of the performance of the judge: ability to fulfil the assigned work, ability to work in team, communication skills;
- 2) General capabilities of the judge: ability to understand, intellectual flexibility, willingness to overtake duty, ability to cope with pressure, leadership ability, professional competencies, quality of written and verbal communication, etc.

Consequence for the Evaluation

- 1) Training to develop competencies/skills,
- 2) Revealing the shortcomings of the functionality of the judiciary system,
- 3) Career promotion of the judge.

In Croatia the evaluation of the judges is implemented on the following criteria⁵:

⁵ Methodology on Evaluation of Judges approved by the Chairmen of Courts (or as the provisional translation of the document says “Presidents of the Councils of Judges in the Republic of Croatia”) of Croatia, 2007, Article 3-17.

1) Performance

- a. In this case a judge shall be deemed as complying with the Council milestones (benchmark performance indicators) set in percentage for the given year if the judges has delivered that number of resolved cases. In case of failing to meet the benchmark performance indicators, for each percent of unresolved cases a relevant point (score) is subtracted from the evaluation.

2) Maintaining deadlines

- the judge met deadlines in 100%	10 points
- the judge met deadlines in 76% cases and more	5 points
- the judge met deadlines in 75% cases and less	0 points

11 The quality of decisions made, assessing the number of appellations (revised decisions):

Up to 3 % revised cases	100 points
3-6 % revised cases	75 points
6-10% revised cases	50 points
10-15 % revised cases	25 points
15 % and more revised cases	0 points

12 Professional development

- a. The judge received relevant points for participation in educational programs, scientific degree, obtaining a Diploma, participating in drafting a Law, for the publication of a scientific article or research etc.

The judge loses points during the evaluation in the following cases:

- for a serious violation incurring disciplinary proceedings	200 points
- for a less serious violation incurring disciplinary proceedings or a violation of ethical principles if disciplinary accountability has not been established	100 points

The following is the scale for the evaluation of judges in Croatia

unsatisfactory performance of judicial duty	Less than 100 points
satisfactory performance of judicial duty	100-140 points

successful performance of judicial duty	140-180 points
exceptional performance of judicial duty	180 points and more

Thus, summing up the results of the review of the international experience, we can say that the models of the evaluation of judges applied in different countries have common approached. Commonalities refer to both the criteria subject to evaluation and the consequences of evaluation.

In terms of criteria, the following are target of evaluation:

- 1) The performance of the judge
- 2) The legal knowledge of the judge
- 3) The professionalism and impartiality of the judge
- 4) The communication skills of the judge
- 5) The peer relationship skills of the judge
- 6) The professional involvement and development of the judge
- 7) The administrative skills of the judge

In terms of consequences, the evaluation of judges has a number of main consequences:

- 1) Based on the decision of the evaluating body, the judge can be sent for additional training, when the evaluation reveals need for further improvement of certain skills/competencies of the judge in a certain area ;
- 2) A discussion is organized with the judges whose evaluation results were low, within the self-governing body, including the Chairperson of the relevant court, to come up with joint recommendations on the improvement of the professional competencies of the judge.
- 3) It affects the decisions made on the career advancement of the judge.
- 4) Financial consequences, in terms of deprived bonuses and retained salaries.
- 5) Dismissal as a result of continued failures of performance.

Study of international experience also reveals that the evaluation of judges by itself cannot lead to disciplinary sanctions, with the exception of cases when in the process or as a result, of evaluation, there come forward grounds for disciplinary proceedings as provided by the Law.

In some countries, the fact of the judge having been subject to a disciplinary act is treated as separate criteria for evaluation, the appropriateness of which is a subject to discussion. In Britain, in case it is necessary to find out the judge's professional qualities, the judge can be subjected to extraordinary evaluation within the scope of disciplinary proceedings.

Based on the requirements of the above-mentioned international documents and principles enshrined by the JRP 2012-2016 Regulations, the system of evaluation of the judges should be based on a number of important principles:

- The evaluation should be implemented on clearly defined, transparent and uniform criteria and indicators, with the fundamental ones being defined by Law.
- The evaluation of judges should be implemented with maintaining their full external and internal independence.

- The results of the evaluations should not affect the remuneration of the judge. ⁶

1.2. The current regulations relating to the disciplinary sanctions against judges also face some issues, such as:

1) Currently, in compliance with the RA Judicial Code, apparent and gross violation of Substantive or Procedural Code is considered as grounds for the disciplinary sanction against the judge. However, the Law does not define the content “apparent and gross violation”, which brings about ambiguities within the disciplinary proceeding cases. In the given case, each party of the disciplinary proceeding gives their own interpretation, resulting in a non-uniform practice in disciplinary proceedings. Therefore, with the purpose of establishing a uniform practice of sanctioning the judges on the grounds of apparent and gross violations of the Law it is necessary to clarify the criteria to assess the “apparent and gross violation” in the RA Judicial Code. This amendments is envisaged in Para 1.4.4 of the “List of Activities Stemming from the Strategic Program of the RA Legal and Judicial Reforms 2012-2016”, approved by the Order NK-96-A of the President of the Republic of Armenia, dated as of June 20, 2012.

2) Currently, the meetings on the disciplinary proceedings against the judges by the Council of Justice are held behind the closed doors, except the cases, when the judge demands for public hearing. This somehow opposes the approach that the Council of Justice while proceeding with a disciplinary liability against a judge, acts as a court, which is provided by the Judicial Code (Article 158). The public hearing of the disciplinary liability case against the judge can be an important guarantee of objective examination of the case. Therefore, it is necessary to set public hearing procedure of the disciplinary liability cases examined by the Court of Justice, simultaneously defining those exceptional cases, when it would be possible/necessary to hold the sessions behind the closed doors.

“Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia” document by OSCE/ODIHR⁷ also supports the open hearings of the disciplinary proceedings against the judges by the Council of Justice, where, according to Para 26

⁶ Brief Report of the International Union of Judges on the Systems of Performance Evaluation of Judges, Kyiv Recommendations, 2006. Para 8, 9, 12, Part 27-31.

⁷ <http://www.osce.org/hy/odihr/75436?download=true>

“...hearings shall be open, unless the judge who is accused requests that they be closed. In this case a court shall decide whether the request is justified...”

The same is provided by the Para 1.4.3 of the “List of Activities Stemming from the Strategic Program of the RA Legal and Judicial Reforms 2012-2016”, approved by the Order NK-96-A of the President of the Republic of Armenia, dated as of June 20, 2012.

3) There are some gaps in the issue of enhancing the legislative guarantees for the independence and protection of the judge within the scope of disciplinary proceedings. Particularly, the current legislation clearly regulates the process of disciplinary proceedings and defines timing for each stage of proceedings. However, it does not define the legal consequences for failing to meet those terms. In fact, violation of these terms does not affect in any way the progress of the disciplinary proceedings initiated against the judges, which does not stem from the need of strengthening legal safeguards for the protection of the judge within the scope of disciplinary proceedings. Therefore, it is necessary to include the violation of the given terms (timing) of the disciplinary proceedings as a basis for suspending the case. It will make the subjects that raised the proceeding act in strict accordance with the Law, maintaining all the legal timing, as a result of which the protection of independence and legal guarantees of the judges under the disciplinary proceedings would be strengthened.

The issue of strengthening the legal guarantees of the independence and protection of the judge under the disciplinary proceedings is envisaged by the Para 1.4.2 of the “List of Activities Stemming from the Strategic Program of the RA Legal and Judicial Reforms 2012-2016”, approved by the Order NK-96-A of the President of the Republic of Armenia, dated as of June 20, 2012.

4) Currently, according to the Substantive or Procedural Code, it is possible to initiate disciplinary proceedings against a judge for apparent and gross violation of the Law immediately after the decision on the Judicial Act (Decision of the Court), even if that decision has not entered into force. A situation is created, when the Court of Justice obtains an opportunity to discuss a question to sanction a disciplinary proceedings against the judge and approve or decline the fact of the violation of the Substantive or Procedural norms in case, when the fact of violation is still in the process of appeal in the Superior Court, as a result of the complaint. In this case, the Council of Justice may, by its decision, limit or predetermine the decision of the

Superior, which is obviously not stemming from the constitutional powers of the Council of Justice. Beside, a situation can come forward when the Council of Justice and Court of Appeal or Court of Cassation can have apparently contradicting decisions regarding the violation of the Law by the judge. Therefore, to avoid such situations, it is necessary to define, that disciplinary proceedings against a judge for apparent and gross violation of the legislative norm, based on the Substantive or Procedural Code can be initiated only in case when the relevant Judicial Act (Decision) has entered into force.

2. The Purpose and Nature of the Regulation

2.1 The purpose of the Evaluation of Judges.

The purpose of the evaluation of judges envisaged by the Program is to:

- Identify and indicate to the judges ways to improve the efficiency of their work,
- Promote the self-assessment of the judges,
- Serve as basis for the career promotion of the best candidate judges.

2.2 General Approaches to the Introduction of the System of Evaluation

- In the Republic of Armenia, the basics of the System of evaluation of judges should be envisaged by the RA judicial Code.
- It is important to note, that the system of the evaluation of judges is primarily a tool for *internal evaluation*, it is implemented by the judicial self-governing bodies, the results of the evaluation are discussed and analyzed within the judicial self-governing bodies. As a tool for internal use, it is the responsibility of the judicial self-government bodies to introduce those tools, ensure the smooth implementation of those and initiate necessary measures stemming from those. Based on those considerations:
 - 1) Being a very important function of self-governance the evaluation of the judges should be implemented by the Evaluation Committee of the General Assembly of Judges.
 - 2) The Judicial Code should define only the key principles, approaches, criteria and evaluation indicators for the system of evaluation of judges and the Methodology and procedures for the implementation of evaluation should be defined by the Council of the Courts Chairpersons of the Republic of Armenia.

2.3 General Description of the Evaluation Criteria for Judges

- The evaluation of judges will be implemented based on quantitative – *objective* and qualitative – *subjective* criteria.

- The ***objective quantitative data*** will become a key share of the evaluation of judges.
- For each evaluation indicator the judges are assigned relevant points, defined by the CCC, depending on the importance of the indicator.
- To organize the process of the evaluation of the judges the CCC, upon its decision, defines the methodology/ procedure for the evaluation of judges.
- As a result of final evaluation, according to the scoring scale defined by the Council of Courts Chairpersons, the performance of the judges are classified into four groups:
 - 1) high (excellent),
 - 2) good
 - 3) average
 - 4) low
- The evaluation based on the objective data should comprise not less than 40% of the evaluation score of the judge; and the evaluation based on the qualitative criteria shall comprise 60% of the total evaluation score.

2.4 Objective – quantitative criteria for the evaluation of judges

- According to the civil, criminal and administrative types of cases the quantitative criteria for the performance evaluation of judges of the first instant courts are:
 - 1) Quantitative performance of the judges and workload,
 - 2) Maintaining timing for the judicial cases,
 - 3) Average duration of the case per types of the cases (unit of counting: days
- The quantitative performance and the work load of the judges is assessed by the coefficient of individual workload (CIW) for the judges through the following formula: $CIW = H / L$, $H = A / (I + J - K)$, $L = C / (M + N - O)$, $CIW = A / C * (M + N - O) / (I + J - K)$ where:

H = individual quantitative performance annual index (ratio) for the judge

A = all cases completed by the judge in the given year

I = all cases transferred from the previous year

J = all the new cases assigned to the judge in the given year

K = all the suspended current cases for the judge during the

L = coefficient of average quantitative performance for the Court for the year

C = number of all cases completed by the Court during the year

M = number of all cases transferred from the previous year in the Court (for all judges)

N = number of all cases presented to the Court (assigned to the judges) during the year

O = number of all suspended current cases during the year in the Court (for all judges)

- The evaluation of the individual quantitative performance of the judge should actually be interconnected with the Budget Program⁸ process, based on which the CCC should define annual performance indicators for the judges, and the performance of the judge can be considered complete only with 100% fulfilment of the indicators.
- To assess the timing of the average duration of a case the CCC should define the framework deadlines for average case duration per types of cases. Example - see above the case of Croatia.

2.5 Subjective - Qualitative Criteria for the Evaluation of Judges

- Another share of the System of the evaluation of judges is the evaluation based on qualitative – subjective criteria. This method of assessment should be performed once in three (3) years, based on the longevity and load of summing up the results of the evaluation.
- Review of the international experience allows us recommending, that the subjective evaluation of the judges of the Court of first instance and the Court of Appeal is implemented according to the following criteria and indicators:

Criteria	Indicator	Maximum score
1. Legal knowledge	1) Demonstrates proper knowledge of Substantive and Procedural Law.	
	2) Properly justifies his/her judicial acts/decisions	
2. Professionalism and impartiality	1) Ability to withstand pressure, threats	
	2) Maintains the rules of professional ethics	
	3) Demonstrates fair and impartial attitude to the parties of the trial	
	4) Shows up at the Court session in timely manner	
	5) Shows up prepared for all Court sessions	
	6) Is able to maintain self-control	
3) Communication skills	1) Judicial Acts are clear, logical and	

⁸ The Law on “Making Changes and Ammendments in the RA Law on Budget System’ defines these mandatory budget provisions, through which the new model of funding sould be introduced in 2014. In this respect, there is also available the Advisory analysis of the Inernational Center for Human Development on “Introducing Program Budgeting Indicators in the Judicial Department”.

	understandable (in understandable language)	
	2) Demonstrates clear and comprehensible verbal expression during the session	
	3) Demonstrates ability to listen during the sessions	
	4) Demonstrates polite and respectful manners during the session	
4) Peer /collegial communication/relationship skills	1) Pays attention to the relationships with the colleagues and other employees of the judiciary	
	2) Shares professional knowledge and experience	
	3) Is willing to take over responsibilities	
5) Professional involvement and development	1) Actively participates in activities of the judiciary self-governing bodies, professional associations of judges	
	2) the right to participate in development activities	
	2) Participates in legal development activities	
	3) is interested in developing professional knowledge and skills; participates in educational activities	
	4) Demonstrates computer proficiency and knowledge of other technical measures necessary to administer justice	
6) Administrative skills (only in case of the Chairpersons of Courts)	1) Is able to define targets and organize the human and material resources to reach those targets	
	2) Motivates his/her colleagues and members of staff	

- To make the results of the subjective evaluation maximally objective, it is necessary to differentiate the sources of information. To assess the above-mentioned criteria and indicators the following sources are used internationally and are recommended to be used locally in RA;

Peer-to-peer evaluation by the judges. The judges selected on random selection principle evaluate their colleagues through observing their trial sessions, listening to the minutes of the sessions and expressing opinion on the professional qualifications of the respective colleagues. Still another colleague is reviewing the Judicial Acts of the judge. The judges that have low evaluation scores or administrative penalty will not be included in the group of evaluators.

2.6 Summing up the results of the Evaluation of Judges

- As a result of evaluation, the Evaluation Committee composes an individual report for each judge, with the final scoring.
- The documents containing the information of the results of the evaluation of the judge are stored in the Portfolio (personal file) of the judge.

2.7 Consequences of the Evaluation of Judges

- Based on the results of the evaluation of the judges, the CCC can make a decision to send the judge to additional training courses, if the evaluation reveals the need to improve the professional skills/competencies of the judge in a specific area.
- The judge cannot apply to be enrolled in the list of career promotion or for the vacancy of the Chairperson of the Court before the results of the next evaluation, if the current evaluation scored low.
- Those judges that have high evaluation scores two consecutive times have priority while applying for the enrolment in the career promotion list.
- Those judges that were scored at least “good” as a result of two consecutive evaluations, while applying for the enrolment in the career promotion list have the next priority after the judges scoring highest.

2.8 A number of fundamental regulations is planned by the project for the disciplinary proceedings against the judges, in particular:

- Apparent and gross violations have been identified in the Substantive and Procedural Laws. Particularly, the lists of obvious and gross violation cases of the Substantive and Procedural Laws, that have been presented, are not fully complete. As these cases are, in reality, numerous and diverse, and as a result, it is not feasible to provide for the full list of these cases, the project outlined the most fundamental and important cases. However, these can have decisive role while making decisions on other cases, not defined by the Project, as obvious and gross violation.

- It has been defined that the hearings on disciplinary proceedings against a judge are held by the Council of Justice in an open session. At the same time, those possible cases, when the hearing can take place behind the closed doors are also defined.
- Violation of the terms (timing) of disciplinary proceedings have been involved among the grounds for termination of the proceedings; as a result, any violation of terms prescribed by the Law by the subject initiating the disciplinary proceeding will become a ground for the termination of the proceedings.
- A regulation is envisaged, by which disciplinary proceedings based on the obvious and gross violation of the Substantive or Procedural norms can be initiated only after the Judicial Act has entered into force.

3. Expected Result

3.1. Upon introduction of the procedures of the evaluation of judges, the judicial system will have comprehensive and reliable database to assess the efficiency of the activities and performance of the judges and to develop measures to increase the efficiency of the judiciary. Moreover, being based on the evaluation data, the career promotion opportunities will become more predictable, objective and merit based.

3.2. In terms of disciplinary proceedings against judges, it is planned to have system, that will ensure the impartiality in reviewing the cases of disciplinary proceedings against judges, will exclude the subjective attitudes during the disciplinary proceedings and ambiguities in interpretation of the law, thereby ensuring the legal protection and independence of the of the judges.

REFERENCE LETTER

ON

Necessity or absence of necessity to make changes or additions in the Legal Acts of the RA upon the adoption of the “RA Law on Making Amendments and Additions to the RA Judicial Code” and “RA Law on Making Amendments and Additions to the RA Administrative Procedures Code”

After adopting the “RA Law on Making Amendments and Additions to the RA Judicial Code” and the “RA Law on Making Amendments and Additions to the RA Administrative Procedures Code” it is not envisaged to make changes in other Legal Acts.

REFERENCE

ON

Significant increase or decrease of the expenditure and income lines of the budget of the national or local self-governing bodies upon the adoption of the “RA Law on Making Amendments and Additions to the RA Judicial Code” and “RA Law on Making Amendments and Additions to the RA Administrative Procedures Code”

After adopting the “RA Law on Making Amendments and Additions to the RA Judicial Code” and the “RA Law on Making Amendments and Additions to the RA Administrative Procedures Code”, no significant increase or decrease of the expenditure and income lines of the budget of the national or local self-governing bodies for 2013-2014 is planned.