



**Permanent Mission
of the Republic of Azerbaijan
to the UN Office and other
International Organizations**

GENEVA

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The Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights, and with reference to the Latter's request dated 12 November 2017 has the honour to transmit herewith the information of the Judicial-Legal Council of the Republic of Azerbaijan with regard to the questions put forward by the Special Rapporteur on the independence of judges and lawyers.

The Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Enclosure: 5 pages



Geneva, 26 January 2018

Office of the United Nations
High Commissioner for Human Rights
GENEVA

**Information provided by the Republic of Azerbaijan regarding the Questionnaire
of the UN Special Rapporteur on the independence of judges and lawyers**

1. Please indicate whether there is a national body or mechanism in charge of selecting, appointing, promoting, transferring, suspending or removing judges in your country. What is the exact denomination of this body or mechanism? What are the legal basis for its establishment (e.g. constitutional provisions; ordinary law or other)?

Since 2004, joint working groups on various directions of the judiciary activity were established together with the Council of Europe, comprehensively analyzing the legislation in this field and launching the work on bringing it to full compliance with the European standards. For this purpose, relevant analyses were conducted taking into account the progressive international experience and thus it was concluded that a new body serving to increase the efficiency of justice administration in Azerbaijan – the Judicial-Legal Council, an independent organ of the judiciary – shall be created.

In 2005 a separate Law on the Judicial-Legal Council was adopted. According to the Law, the Judicial-Legal Council a self-governing organ of the judicial power responsible, within its competence, for organizing the judiciary, ensuring the independence of judges and judiciary, organizing the selection of non-judge candidates for vacant judgeship positions, evaluating the work of judges, their transfer, promotion, disciplinary proceedings, as well as other issues related to courts and judges in the Republic of Azerbaijan.

More over it should be noted that in the framework of measures directed toward strengthening of the judiciary, the powers of the Council have been enhanced with each year, ensuring the independence of the judiciary was included in its mandate, the Council was charged with important tasks such as making proposals on appointment of presidents to courts, in addition to all judges, determining territorial jurisdictions of courts, providing opinion on the budget of first instance and appeal courts, preventing external interference with the work of judges; its role in premature termination of powers of judges was increased.

2. Please provide information on the composition of the body or mechanism (number and qualifications of members), the procedure for the appointment of its members and the duration of their term of office. Please also

provide information on the human and financial resources of this body or mechanism (e.g. number of employees and their qualifications; annual budget)

The Judicial-Legal Council functions in composition of 15 members. Minister of Justice of the Republic of Azerbaijan and President of the Supreme Court of the Republic of Azerbaijan are *ex officio* members of the Council. Also, the composition of the Judicial-Legal Council includes: the person appointed by the President of the Republic of Azerbaijan; the person appointed by Milli Majlis (National Assembly) of the Republic of Azerbaijan; the judge appointed by the Constitutional Court of the Republic of Azerbaijan; two judges of the cassation instance courts selected by the Supreme Court of the Republic of Azerbaijan from the list of nominees proposed by the judge associations; two judges of the appeal instance courts selected by the Judicial-Legal Council from the list of nominees proposed by the judge associations; the judge of the Supreme Court of the Nakhchivan Autonomous Republic selected by the Supreme Court of the Nakhchivan Autonomous Republic from the list of nominees proposed by the judge associations; two judges of first instance courts selected by the Judicial-Legal Council from the list of nominees proposed by the judge associations; the persons appointed by the Ministry of Justice of the Republic of Azerbaijan; the lawyer appointed by the Presidium of the Bar Association of the Republic of Azerbaijan; the person appointed by the General Prosecutor's Office of the Republic of Azerbaijan. Evidently, more than half of the Judicial-Legal Council members – 9 out of 15 – are judges representing courts of all instances.

For the purpose of conducting organizational work for preparation of Judicial-Legal Council meetings, taking the minutes of the meetings, executing the decisions taken by the Council, as well as resolving other issues within the Council's competence, the Office of the Judicial-Legal Council was established. Employees of the Judicial-Legal Council Office are civil servants. The Judicial-Legal Council determines its structure and number of employees based on resources allocated to it from the state budget. Currently, the Council's Office contains 20 staff positions. The budget of the Judicial-Legal Council amounts to 650 thousand Manats.

3. Please provide detailed information on the legislation and practise existing in your country in relation to:

a) The selection and appointment of candidates for judicial offices and the criteria used for their selection and appointment (e.g. qualifications, integrity, ability and efficiency)

The selection procedure, consisting of multi-level examinations and interviews, as well as long-term courses and practices, is carried out by an independent body – the Judges Selection Committee. The fact that more than half of the Committee members are judges of high instance courts (6 out of 11), and that it includes a representative of prosecution, Ministry of Justice, bar association and a lawyer-academic ensures professional selection of judges.

For the purpose of ensuring transparency and objectivity and in accordance with the Rules of Selection of Judges tests and examinations are carried out in a single hall, even when the number of nominees exceeds one thousand. All stages of examination, including the selection and distribution of questions is carried out in front of the nominees, numerous local and international observers and mass media representatives; the results are checked with their participation and announced on the spot. The most interesting part is that the whole process is live broadcasted online.

For the purpose of ensuring transparency, numerous observers from local and international rights organizations and mass media representatives participate also in verbal examinations conducted in order to examine the nominees' ability to articulate their thoughts and to come up with logical conclusions.

Judgeship nominees who pass the examinations successfully attend a one-year training course at the Academy of Justice. With the participation of esteemed international experts, the topics on human rights, judicial ethics, combating corruption, efficient organization of the court's work and other topical issues are being lectured, the nominees go through practice at courts. Their practice at progressive countries, including at the European Court of Human Rights is ensured.

Azerbaijan's positive results in judicial reform, including the selection of judges has drawn the attention of prestigious international organizations as well. Thus, the European Commission for the Efficiency of Justice (CEPEJ) showed interest in the selection of judges in our country and established an influential expert group following this procedure directly. The European experts observing all stages of the selection commended this process in their report for its particular transparency, objectivity and purity.

That report was widely discussed with participation of all Council of Europe member-states at the meeting of the Commission and a special decision was taken on the issue, evaluating the positive Azerbaijani practice as exemplary. Also, Azerbaijan was highlighted as a leading country for its investment in the development and modernization of the judiciary and for application of advanced practices.

The Council of Europe and the European Union also valued our country's method for selection of judges positively, advising other member-states to use this practice as reference.

b) Condition of service and security of tenure of judges

According to Part 1 of Article 127 of the Constitution of the Republic of Azerbaijan judges are independent and are subordinate only to the Constitution and laws of the Republic of Azerbaijan.

The independence of judges is ensured by non-politicization, security and immunity of tenure, limiting their appointment, disciplining, dismissal and firing, by independent work and administration of justice in accordance with the procedure prescribed in the law, unacceptability of external interference in or hindrance of judicial proceedings by anyone, ensuring personal security of judges and providing them with financial and social resources appropriate to their positions.

According to Part 1 of Article 127 of the Constitution of the Republic of Azerbaijan judges cannot be replaced during the term of their authority. Judges cannot be transferred without their consent. Judges cannot be removed from office and their tenure cannot be terminated, excluding the grounds prescribed by law.

The first-time judges are appointed for three years. At the end of this term their work is evaluated. If no professional deficiency is discovered in the judge's work during evaluation, by the proposal of the Judicial-Legal Council, his/her tenure is extended until the age limit. The age limit for judges of the Supreme Court is 68 and 66 for judges of other instances.

Successive measures have been taken for the improvement of the financial security of the judiciary and judges, the salary of judges was determined by law and was increased up to 40 times since 2000, when the new judiciary began functioning; reducing the salary of judges is forbidden by law.

c) Promotion of judges; d) Transfer of judges

According to the Law on the Judicial-Legal Council, presenting proposals on the appointment of all judges, their transfer, promotion, disciplinary action and other issues related to their activity are the exclusive authority of this organ.

At the same time, the Judicial-Legal Council conducts evaluation of the work of judges. The evaluation of the work of judges is conducted in order to improve the administration of justice, to properly organize the training of judges, as well as to determine their fitness for promotion and continuing the work as a judge or chairman.

Thus, the Council presents proposals to the Head of State regarding the appointment of all judges. Judges of first instance courts are appointed directly by the Head of State, while judges of higher instance courts are appointed by the Milli Majlis based on the presentation of the Head of State.

Evidently, the dependence of judges' appointment on the proposals of the Council, which consists mostly of judges, excludes any political interference in the promotion of judges.

e) Disciplinary proceedings against judges

According to new legislation, the procedure of bringing judges to disciplinary action was stipulated in accordance with international practice and based on democratic grounds. Thus, the disciplinary action against judges can only be launched by the Judicial-Legal Council. The inquiry of the disciplinary action is conducted by a judge member of the Council, the judges are familiarized with all the materials, their statements are taken and the issue of bringing them to disciplinary action is decided exclusively by the Council's judge members. The right of the judge to defend himself/herself with the help of a lawyer or a judge colleague of his/her choice, to object the Council members, as well as to file a complaint against the taken decision with the Supreme Court Plenum serves the objectivity of this procedure.