**Response of the Government of the Republic of Korea to the Questionnaire of the Special Rapporteur on the independence of judges and lawyers**

**Selection, appointment, promotion, transfer, suspension or removal of judges**

1. In principle, the National Court Administration, established under the Supreme Court and overseeing the entire administrative affairs of the judiciary, is tasked with the personnel management of judges. However, final decisions on personnel matters involving judicial officers are derived on a collective basis by different consultative bodies based on the level of courts to which the judge in question belongs.
2. The Judiciary of the Republic of Korea is composed of a Supreme Court Chief Justice, 14 Supreme Court Justices and judges. The procedure of appointment and person in charge of making final decision on personnel management vary. The specifics are as follows:
3. The Supreme Court Chief Justice is appointed by the President with the consent of the National Assembly;
4. The Justices of the Supreme Court are appointed by the President with the consent of the National Assembly upon the recommendation of the Supreme Court Chief Justice;
5. Judges are appointed by the Chief Justice of the Supreme Court with the consent of the Supreme Court Justices’ Council, after deliberation thereof by the Judges Personnel Committee;
6. The above procedure is stipulated in the Constitution and the *Court Organization Act* of the Republic of Korea.

**Composition, Appointment Procedure, Term of Office, Human and Financial Resources**

1. The National Court Administration is established under the Supreme Court pursuant to the *Court Organization Act*. It takes charge of overall judicial administrative affairs. The National Court Administration is comprised of judges and administrative personnel who are appointed by the Chief Justice of the Supreme Court.
2. The Judges Personnel Committee (hereinafter referred to as “Personnel Committee”) is composed of 11 members, including a chairperson. The members of the Personnel Committee include:
3. three judges appointed by the Chief Justice of the Supreme Court;
4. two prosecutors recommended by the Minister of Justice;
5. two attorneys-at-law recommended by the President of the Korean Bar Association;
6. two professors of law recommended each by the president of the Korea Law Professors Association, and the president of the Korean Association of Law Schools;
7. two revered persons of profound learning and experience in the area of their expertise, among those who are not admitted to the bar (in such case, at least one of the two persons must be female);

The members of the Personnel Committee are appointed for a one-year term, and the term may be renewed.

1. The Supreme Court Justices’ Council is composed of the Justices of the Supreme Court, with the Chief Justice of the Supreme Court presiding over it. No separate appointment procedure is required, and the term of office for the members of the Council is the same as their term in office as the Justices of the Supreme Court.

**Selection and Appointment Criteria, Condition of Service, Security of Tenure, Promotion, Transfer, Disciplinary Proceedings**

1. It is stipulated that judges are appointed from among those who have been engaged in legal affairs for a specific period after the acquisition of license to practice law. The required years of legal experience are stipulated as follows:
	* 1. more than five years from 2018 to 2021;
		2. more than seven years from 2021 to 2025; and
		3. more than 10 years from 2026;

The eligible applicants will be assessed on the criteria of legal knowledge and legal mind, impartiality, integrity, expertise, communication skills, good character, aptitude and his/her interest in public services. The outcome of assessment will be taken into account in the appointment of judges, which will be made in accordance with the supply and demand of judges at a given time.

In practice, selection of judges involves a process in which applicants are assessed through submission of applications, personality tests, written tests and interviews.

The law stipulates that the Chief Justice and Justices of the Supreme Court shall be appointed from among those who are at least 45 years of age and have been in any of the following offices for at least 20 years:

1. judge, prosecutor, or attorney-at-law;
2. person who is admitted to the bar and has been engaged in legal affairs at a government agency, local government, public organization, or corporations;
3. person who is qualified as an attorney-at-law and has held the office that is higher than the assistant professor in jurisprudence at an authorized college or university;

For a person who has been in two or more offices provided above, the years of such service are summed up. The Committee of Recommendation of Supreme Court Justice Candidates, which includes experts from both private and public sectors, recommends candidates for Supreme Court Justices at least three times the number of Supreme Court Justices, among which one who is recommended by Supreme Court Chief Justice is submitted as a nominee for the Justice of the Supreme Court.

1. Judges shall hold office for ten years, and those who want their term of office renewed may be reappointed after deliberation of the Personnel Committee, with the consent of the Supreme Court Justices’ Council, and then by an official order of reappointment of the Chief Justice of the Supreme Court.
	* 1. The Constitution states that the Chief Justice and the Justices of the Supreme Court shall be appointed for a six-year term of office, and that the Justice of the Supreme Court may serve consecutive terms;
		2. The age limit of the Chief Justice and Justices of the Supreme Court is 70 years of age, and that of judges is 65;
2. Assignment of judges is in the authority of the Chief Justice of the Supreme Court, and is executed by the National Court Administration.
3. The Constitution stipulates that no judicial officer shall be dismissed, unless there is a decision of impeachment or he/she is sentenced to imprisonment without labor or greater punishment. Matters concerning the discipline of judicial officers are determined separately by the *Discipline of Judges Act*.

**Disciplinary Proceedings**

1. Matters concerning the discipline of judicial officers are stipulated in the *Discipline of Judges Act*.
2. The grounds for discipline of judges are as follows:
	* 1. where a judge breaches an official duty or is negligent of such duty;
		2. where a judge defames his/her dignity or injures the prestige of the court;
3. The Judicial Disciplinary Committee, which is established under the Supreme Court, deliberates and decides on the disciplinary cases of judges.
	* 1. The chairperson of the Committee is appointed from among the Justices of the Supreme Court by the Chief Justice of the Supreme Court. The Committee consists of a total of 10 members, each serving for three years. The composition of the Committee is as follows:

three judges appointed by the Chief Justice;

a lawyer, a professor in jurisprudence, and one with abundant learning and experience, all of whom are commissioned by the Chief Justice;

reserve members, appointed from among the judges by the Chief Justice of the Supreme Court;

* + 1. The following persons are entitled to request disciplinary measures against judicial officers:

Chief Justice of the Supreme Court;

Justices of the Supreme Court;

Minister of the National Court Administration;

President of Judicial Research and Training Institute, chief judges of all levels of court, chief librarian of Supreme Court Library, all of who have supervisory authority concerning judicial administrative duties over the relevant judicial officer;

* + 1. Disciplinary procedures consist of request for disciplinary measures, service of request for disciplinary measures, request for attendance to respondent, deliberation on discipline, disciplinary decision, and disposition of disciplinary measures. The judicial officers against whom disciplinary measures are requested have the right to make statement, the right to present defense evidence, and the right to designate defense lawyers. Decisions on a disciplinary case are made by the majority attendance including the chairperson and by the majority approval of the members present.
1. There are three kinds of disciplinary measures against a judge: suspension, salary reduction and reprimand. In cases where any ground for disciplinary measures exist, when not issuing disposition of disciplinary measures is recognized as appropriate, the Council may render a decision not to impose disciplinary measures.
2. The procedure for raising objection to a disposition of disciplinary measures is handled in a Supreme Court trial despite the fact that it is an objection against an administrative disposition, taking into account the gravity of taking disciplinary action against judicial officers.